



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XLI
August 15, 2018

NUMBER 4
Pages 325 to 442

CONTENTS IN THIS ISSUE

Pages 333 to 439 include **ARC 3936C** to **ARC 3963C**

ADMINISTRATIVE SERVICES

DEPARTMENT[11]

Notice, Update of references—department organization, statutory citations, addresses, amendments to chs 1, 4 to 9, 41, 42, 48, 55, 56, 58, 59, 61, 62, 64 to 66, 71, 100 to 103, 119 ARC 3937C	333
---	-----

ALL AGENCIES

Agency identification numbers	331
Citation of administrative rules	327
Schedule for rule making	328

BANKING DIVISION[187]

COMMERCE DEPARTMENT[181]"umbrella"

Notice, Organizational structure of the division, 1.3 ARC 3947C	346
Notice, Application procedures, amendments to ch 2 ARC 3949C	349
Notice, Public records and fair information practices, amendments to ch 7 ARC 3948C	353
Notice, General banking powers, 8.8, 8.9 ARC 3952C	354
Notice, Real estate lending; leasing, 9.2, 9.3 ARC 3953C	356
Notice, Contested cases, amendments to ch 11 ARC 3951C	358
Notice, Waivers and variances—update of citations, amendments to ch 12 ARC 3950C	365
Notice, Debt management, ch 20 ARC 3954C	368

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]"umbrella"

Notice, All Iowa opportunity scholarship program, 8.2, 8.4(2) ARC 3938C	374
Notice, Iowa national guard educational assistance program—application requirements, 20.1(2) ARC 3940C	377
Notice, Rural Iowa advanced registered nurse practitioner and physician assistant loan repayment program, amendments to ch 25 ARC 3941C	378
Notice, Health care loan repayment program, ch 26 ARC 3939C	380

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Filed, Overpayment, 1.1 ARC 3963C	424
Filed, Graduates of foreign dental schools—licensure, 11.4 ARC 3961C	425

ENGINEERING AND LAND SURVEYING

EXAMINING BOARD[193C]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Notice, Review of rules—administration, licensure, professional development, discipline, peer review, surveying, amendments to chs 1, 3 to 5, 7 to 12 ARC 3946C	384
--	-----

EXECUTIVE DEPARTMENT

Executive order number 3	440
--------------------------------	-----

HUMAN SERVICES DEPARTMENT[441]

Notice, Mental health and disability services regions, amendments to ch 25 ARC 3942C	393
---	-----

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

- Notice, Federal occupational safety and health standards for exposure to beryllium—adoption by reference, 10.20 **ARC 3955C** 410

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

- Notice, Chiropractic physicians—license reactivation, 41.14(3)“b”(3) **ARC 3943C** 412
- Notice, Physical therapists and physical therapist assistants—licensure compact, criminal history background check, 200.2, 200.3, 200.7(1) **ARC 3944C** 413
- Filed, Chiropractic physicians—colleges, continuing education, 42.2(2), 42.5(1), 42.6, 44.1, 44.2, 44.3(2) **ARC 3962C** 427
- Filed, Chiropractic physicians—practice, discipline, 43.3, 43.4(2), 43.10, 45.2 **ARC 3956C** 431

PUBLIC HEARINGS

- Summarized list 329

SOIL CONSERVATION AND WATER QUALITY DIVISION[27]

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]“umbrella”

- Filed, Water quality initiative—eligible practices, cost-share limitation, amendments to ch 16 **ARC 3957C** 433

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]

- Filed, Purchasing—ICN sole-source agreements, 5.1 **ARC 3958C** 435
- Filed, Authorized use and users—state communications, 7.1 **ARC 3959C** 437

TREASURER OF STATE

- Notice—Public funds interest rates 415

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

- Notice, Veterans trust fund, 14.4 **ARC 3936C** 416

VETERINARY MEDICINE BOARD[811]

- Filed, Veterinary technician state examination—fee, 8.3(1) **ARC 3960C** 438

WORKFORCE DEVELOPMENT DEPARTMENT[871]

- Notice, Reemployment services eligibility assessment procedure; overpayments, 24.6(7)“f,” 25.8(1) **ARC 3945C** 422

PREFACE

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

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

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

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

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

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

Email: Jack.Ewing@legis.iowa.gov
Email: AdminCode@legis.iowa.gov

CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2018

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
6	Wednesday, August 22, 2018	September 12, 2018
7	Friday, September 7, 2018	September 26, 2018
8	Friday, September 21, 2018	October 10, 2018

PLEASE NOTE:

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

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Update of references—department organization, statutory citations, addresses, amendments to chs 1, 4 to 9, 41, 42, 48, 55, 56, 58, 59, 61, 62, 64 to 66, 71, 100 to 103, 119 IAB 8/15/18 ARC 3937C	Procurement Conference Room, A Level Hoover State Office Bldg. Des Moines, Iowa	September 5, 2018 11 a.m. to 12 noon
--	---	---

CORRECTIONS DEPARTMENT[201]

Institutions administration—pornographic materials ban, 20.2, 20.6 IAB 8/1/18 ARC 3912C	Boardroom 510 E. 12th St. Des Moines, Iowa	August 21, 2018 11 a.m. to 1 p.m.
---	--	--------------------------------------

DENTAL BOARD[650]

Advertising; designation of specialty, amend ch 26; rescind ch 28 IAB 7/18/18 ARC 3901C	Board Office, Suite D 400 S.W. Eighth St. Des Moines, Iowa	August 21, 2018 2 p.m.
---	--	---------------------------

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Review of rules—administration, licensure, professional development, discipline, peer review, surveying, amendments to chs 1, 3 to 5, 7 to 12 IAB 8/15/18 ARC 3946C	Board Office, Suite 350 200 East Grand Ave. Des Moines, Iowa	September 5, 2018 9 to 10:30 a.m.
---	--	--------------------------------------

IOWA FINANCE AUTHORITY[265]

Low-income housing tax credits, 12.1, 12.2 IAB 8/1/18 ARC 3917C	Authority Offices 2015 Grand Ave. Des Moines, Iowa	August 21, 2018 9 to 11 a.m.
--	--	---------------------------------

LABOR SERVICES DIVISION[875]

Federal occupational safety and health standards for exposure to beryllium—adoption by reference, 10.20 IAB 8/15/18 ARC 3955C	150 Des Moines St. Des Moines, Iowa	September 6, 2018 10 a.m. (If requested)
--	--	--

MEDICINE BOARD[653]

Prescribing psychologists, ch 19 IAB 8/1/18 ARC 3905C	Board Office, Suite C 400 S.W. Eighth St. Des Moines, Iowa	August 21, 2018 10 a.m. to 12 noon
---	--	---------------------------------------

NATURAL RESOURCE COMMISSION[571]

Licenses—fees, 15.1, 15.12 IAB 8/1/18 ARC 3924C	Wallace State Office Building Conference Room 4W 502 East 9th St. Des Moines, Iowa	August 21, 2018 12 noon to 2 p.m.
	Spirit Lake Hatchery Conference Room 122 252nd Ave. Spirit Lake, Iowa	August 21, 2018 12 noon to 2 p.m.
	Ventura Wildlife Office Conference Room 15300 Balsam Ave. Ventura, Iowa	August 21, 2018 12 noon to 2 p.m.
	Cold Springs District Office Conference Room 57744 Lewis Rd. Lewis, Iowa	August 21, 2018 12 noon to 2 p.m.
	Delaware County Conservation Board Conference Room 2379 Jefferson Rd. Manchester, Iowa	August 21, 2018 12 noon to 2 p.m.
	Lake Darling District Office Conference Room 110 Lake Darling Rd. Brighton, Iowa	August 21, 2018 12 noon to 2 p.m.

PROFESSIONAL LICENSURE DIVISION[645]

Chiropractic physicians—license reactivation, 41.14(3)“b”(3) IAB 8/15/18 ARC 3943C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	September 4, 2018 7:30 to 8 a.m.
Physical therapists and physical therapist assistants—licensure compact, criminal history background check, 200.2, 200.3, 200.7(1) IAB 8/15/18 ARC 3944C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	September 4, 2018 8 to 8:30 a.m.
Prescribing psychologists, ch 244 IAB 8/1/18 ARC 3904C	Iowa Board of Medicine, Suite C 400 S.W. Eighth St. Des Moines, Iowa	August 21, 2018 10 a.m. to 12 noon

RACING AND GAMING COMMISSION[491]

Problem gambling; test sample; Iowa-foaled horse allowance, 5.4(12), 10.1, 10.2(7), 10.4(5)“g,” 10.5(1)“a,” 10.7 IAB 8/1/18 ARC 3926C	Commission Office, Suite 100 1300 Des Moines St. Des Moines, Iowa	August 21, 2018 9 a.m.
--	---	---------------------------

The following list will be updated as changes occur.

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

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]
AGING, DEPARTMENT ON[17]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Soil Conservation and Water Quality Division[27]
ATTORNEY GENERAL[61]
AUDITOR OF STATE[81]
BEEF CATTLE PRODUCERS ASSOCIATION, IOWA[101]
BLIND, DEPARTMENT FOR THE[111]
CAPITAL INVESTMENT BOARD, IOWA[123]
CHIEF INFORMATION OFFICER, OFFICE OF THE[129]
OMBUDSMAN[141]
CIVIL RIGHTS COMMISSION[161]
COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Utilities Division[199]
CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
EARLY CHILDHOOD IOWA STATE BOARD[249]
ECONOMIC DEVELOPMENT AUTHORITY[261]
 City Development Board[263]
IOWA FINANCE AUTHORITY[265]
EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
EGG COUNCIL, IOWA[301]
ENERGY INDEPENDENCE, OFFICE OF[350]
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
EXECUTIVE COUNCIL[361]
FAIR BOARD[371]
HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]
 Latino Affairs Division[433]
 Status of African-Americans, Division on the[434]

Status of Women Division[435]
Status of Iowans of Asian and Pacific Islander Heritage[436]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
Employment Appeal Board[486]
Child Advocacy Board[489]
Racing and Gaming Commission[491]
State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
IOWA PUBLIC INFORMATION BOARD[497]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
Appeal Board, State[543]
City Finance Committee[545]
County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
Energy and Geological Resources Division[565]
Environmental Protection Commission[567]
Natural Resource Commission[571]
Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
Military Division[611]
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
Professional Licensure Division[645]
Dental Board[650]
Medicine Board[653]
Nursing Board[655]
Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
Labor Services Division[875]
Workers' Compensation Division[876]
Workforce Development Board and Workforce Development Center Administration Division[877]

ARC 3937C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Notice of Intended Action

Proposing rule making related to update of references, including those of department organization, and providing an opportunity for public comment

The Department of Administrative Services hereby proposes to amend Chapter 1, "Department Organization," Chapter 4, "Public Records and Fair Information Practices," Chapter 5, "Petitions for Rule Making," Chapter 6, "Agency Procedure for Rule Making," Chapter 7, "Contested Cases," Chapter 8, "Declaratory Orders," Chapter 9, "Waivers," Chapter 41, "Auditing Claims," Chapter 42, "Accounting Procedures of Public Impact," Chapter 48, "Prepayment of Expenses," Chapter 55, "Eligible Lists," Chapter 56, "Filling Vacancies," Chapter 58, "Probationary Period," Chapter 59, "Promotion, Transfer, Temporary Assignment, Reassignment and Voluntary Demotion," Chapter 61, "Grievances and Appeals," Chapter 62, "Performance Review," Chapter 64, "Benefits," Chapter 65, "Political Activity," Chapter 66, "Conduct of Employees," Chapter 71, "Combined Charitable Campaign," Chapter 100, "Capitol Complex Operations," Chapter 101, "Parking," Chapter 102, "State Printing," Chapter 103, "State Employee Driving Guidelines," and Chapter 119, "Uniform Terms and Conditions for Service Contracts," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 8A.104, 17A.3 and 17A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 7E.4, 8A.104 and 17A.7.

Purpose and Summary

These rules are being amended to correct outdated references to the Iowa Code and session law and to update procedure references. The proposed amendments address changes in 25 of the Department's chapters of administrative rules in the Iowa Administrative Code and are part of the Department's five-year review of rules.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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 5, 2018. Comments should be directed to:

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Tami Wienczek
 Department of Administrative Services
 Hoover State Office Building
 1305 East Walnut Street
 Des Moines, Iowa 50319-0114
 Fax: 515.281.6140
 Email: tami.wienczek@iowa.gov

Public Hearing

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

September 5, 2018	Procurement Conference Room, A Level
11 a.m. to 12 noon	Hoover State Office Building
	1305 East Walnut Street
	Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 11—1.1(8A), introductory paragraph, as follows:

11—1.1(8A) Creation and mission. The department of administrative services (DAS) is established in Iowa Code chapter 8A. The department manages and coordinates the major resources of state government, including the human, financial, and physical ~~and informational~~ resources. The department was created to implement a world-class, customer-focused organization that provides a complement of valued products and services to the internal customers of state government.

ITEM 2. Amend rule 11—1.2(8A) as follows:

11—1.2(8A) Location. The department's primary office is located in the Hoover State Office Building, Third Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0150; ~~telephone (515)242-5120~~. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays. The department's ~~Web site~~ website at www.das.iowa.gov ~~das.iowa.gov~~ provides information about ~~all department organizational units~~ the department's organization and services.

~~**1.2(1) General services enterprise location.** The general services enterprise's primary office is located in the Hoover State Office Building, Level A-South, 1305 East Walnut Street, Des Moines, Iowa 50319; telephone (515)242-5120. Office hours are 7:30 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.~~

~~**1.2(2) Human resources enterprise location.** The human resources enterprise's primary office is located in the Hoover State Office Building, Level A, 1305 East Walnut Street, Des Moines, Iowa~~

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

~~50319-0150; telephone (515)281-3351. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.~~

~~**1.2(3) Information technology enterprise location.** The information technology enterprise is located in the Hoover State Office Building, Level B, Des Moines, Iowa 50319. The general office telephone number is (515)281-5503. Hours of operation are 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.~~

~~**1.2(4) State accounting enterprise location.** The state accounting enterprise's primary office is located in the Hoover State Office Building, Third Floor, 1305 East Walnut Street, Des Moines, Iowa 50319; telephone (515)281-4877. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.~~

~~**1.2(5) Central procurement enterprise location.** The central procurement enterprise's primary office is located in the Hoover State Office Building, Third Floor, 1305 East Walnut Street, Des Moines, Iowa 50319; telephone (515)725-2725. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.~~

ITEM 3. Amend rule 11—1.3(8A), introductory paragraph, as follows:

~~**11—1.3(8A) Director.** The chief executive officer head of the department is the director, who is appointed by the governor with the approval of two-thirds of the members of the senate. The director serves at the pleasure of the governor.~~

ITEM 4. Amend rule 11—1.4(8A) as follows:

~~**11—1.4(8A) Administration of the department.** In order to carry out the functions of the department, the following enterprises and bureaus have been established:~~

~~**1.4(1) General services enterprise.** The mission of the general services enterprise is to act as the state's business agent to meet agencies' needs for quality, timely, reliable and cost-effective support services and provide a work environment that is healthy, safe, and well-maintained. The chief operating officer, appointed by the director, heads the general services enterprise. The following bureaus have been established within the general services enterprise:~~

~~*a. Capitol complex maintenance.* ~~The capitol~~ Capitol complex maintenance bureau is responsible for the maintenance, appearance, and facility sanitation of the capitol complex buildings and grounds, including environmental control (heating, ventilation and cooling) and all support features including, but not limited to, parking lot maintenance, main electrical distribution, power generation, water supply, utilities, energy efficiency, wastewater removal, on-site safety consultation, work requests for the capitol complex, major maintenance projects associated with the capitol complex, special event coordination, monuments, physical security and access control.~~

~~*b. Design and construction resources.* ~~The design~~ Design and construction resources bureau provides administration of public improvement projects, including design services, contracting for construction, and construction management oversight for state agencies except any agency of the state exempted by law. Capital funding appropriated to participating state agencies shall be transferred to the design and construction resources bureau for administration. ~~The design~~ Design and construction resources bureau is responsible for the administration of major maintenance for agencies in accordance with Iowa Code section 8A.302(4).~~

~~*c. Mail services.* ~~The mail~~ Mail services is responsible for the processing and distribution of mail, which consists of U.S. Mail, UPS, Federal Express, courier service and interoffice mail for the state agencies on the capitol complex and in designated areas in the Des Moines metropolitan area.~~

~~*d. Service delivery* Capitol complex events. ~~The service delivery~~ Capitol complex events bureau is responsible for the following functions for the enterprise: parking and building access; coordination of events in the public area of the capitol, in other buildings on the capitol complex (excluding the historical building), and on the capitol complex grounds; and providing general information regarding the buildings and grounds on the capitol complex.~~

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

e. ~~Real estate services~~ Leasing and space management. ~~The real estate services bureau~~ Leasing and space management is directly responsible for the management of all leased real estate across the state while also providing real estate consultation services pertaining to acquisition, disposition, and development of real property. Specific services may include market research, opinion of property value, financial analysis, long-term real estate strategy, and project management in accordance with Iowa Code section 8A.321(6). Space planning, including moves, additions, and changes, and surplus property ~~are~~, is also coordinated by ~~the bureau~~ leasing and space management.

1.4(2) *Human resources enterprise.* The human resources enterprise is responsible for human resource management in the executive branch of Iowa state government and provides limited services to the judicial and legislative branches. The mission of the human resources enterprise is to support state agencies in their delivery of services to the people of Iowa by providing programs that recruit, develop, and retain a diverse and qualified workforce, and to administer responsible employee benefits programs for the members and their beneficiaries. The director appoints the chief operating officer of the enterprise. The following ~~bureaus~~ have been established within the human resources enterprise:

a. ~~Benefits~~ Risk and benefits management. ~~The benefits bureau~~ Risk and benefits management administers and coordinates the provision of health, dental, life, and ~~disability~~ insurance programs; employee leave programs; workers' compensation, return to work, and loss control and safety programs; 457 deferred compensation; 403(b) tax-sheltered annuity and 401(a) employer match programs; unemployment insurance; and flexible spending and premium conversion programs for state employees.

b. ~~Employment services~~. ~~The employment bureau~~ Employment services provides application, referral, recruitment, selection, EEO/AA and diversity services related to state employment; administration of the state classification and compensation programs; and audit of personnel and payroll transactions.

c. ~~Program delivery services~~ Organizational performance. ~~The program delivery services bureau~~ Organizational performance is responsible for employment relations between the state and the certified employee representative; provides consultative services to state departments, boards, and commissions on human resource program matters; provides organization and employee development services including workforce planning and performance evaluation; and represents the state in contested case matters regarding such programs.

1.4(3) *Information technology enterprise.* ~~The mission of the information technology enterprise is to provide high-quality, customer-focused information technology services and business solutions to government and to citizens. The director appoints the chief information officer for the state, who also serves as the chief operating officer of the enterprise. The following bureaus have been established within the information technology enterprise:~~

a. ~~Application and E-government services~~. ~~The application and E-government services bureau is responsible for support of departmental information technology services; providing software applications development, support, and training; and providing advice and assistance in developing and supporting business applications throughout state government.~~

b. ~~Infrastructure services~~. ~~The infrastructure services bureau is responsible for providing server systems, including mainframe and other server operations, desktop support, printing and printing procurement services.~~

c. ~~Integrated Information for Iowa (I/3) project~~. ~~The I/3 project office provides the strategic direction, functional deployment, and technical support for the I/3 system, including the enterprise accounting, procurement, budget preparation, human resources and payroll functions for the state of Iowa. I/3's vision is to provide greater responsiveness to customers, improved productivity, increased accountability and efficient delivery of services across state government, and consistent and accurate information that Iowans want.~~

d. ~~Advisory groups~~.

~~(1) Technology governance board. The technology governance board operates pursuant to 2005 Iowa Acts, House File 839.~~

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

~~(2) IOWA Access advisory council. The IOWA Access advisory council is established within the department for the purpose of creating and providing to the citizens of this state a gateway for one-stop electronic access to government information and transactions, whether federal, state, or local.~~

~~1.4(4) 1.4(3) State accounting enterprise.~~ The state accounting enterprise was created to provide for the efficient management and administration of the financial resources of state government. The chief operating officer, appointed by the director, heads the enterprise. The following ~~functional units~~ have been established within the state accounting enterprise:

~~a. Accounting and daily processing.~~ Accounting and daily processing bureau includes the functions of daily processing, income offset, and financial systems.

~~b. Other sections functions.~~ The state accounting enterprise also includes the financial reporting section, the I/3 program team, and the centralized payroll section.

~~1.4(5) 1.4(4) Central administration.~~

~~a. Director's office.~~ The director is the ~~chief executive officer for~~ head of the department. The director's central administration ~~area~~ provides support to the director and to the governmental and business operations of the department and its enterprises. The following functions are included ~~in this area~~: general counsel; legislative liaison; rules administrator; strategic, performance, and business continuity planning; program oversight and accountability; and departmental and enterprise policy and standards development.

~~b. Information security office.~~ The information security office is responsible for developing, implementing and maintaining information security policies, standards, and practices that enhance the confidentiality, integrity and availability of computer systems and electronic data resources, and for ensuring enterprise-wide compliance with security requirements. This office includes the chief information security officer for state government.

~~e. b. Marketing, communications and customer council support.~~ Marketing, communications and customer council support ~~supplies~~ provides the department's media, public relations, and employee communications services; supports product and service marketing within each of the department's enterprises; and coordinates customer council activities for the department.

~~1.4(6) 1.4(5) Customer management, finance, and internal operations.~~ This ~~division~~ Customer management, finance, and internal operations provides customer management, finance, and internal operations oversight, administration, and support in a manner that provides accurate and timely information, safeguards assets, and facilitates fiscally responsible, employee-centered and customer-focused decision making for the department. ~~The functional units of the customer management, finance and internal operations division are:~~

~~a. Activity-based costing;~~

~~b. Accounts payable, purchasing, human resources, and administrative support;~~

~~c. Financial reporting and budget; and~~

~~d. Accounts receivable, billing, collections, and customer resource management.~~

~~1.4(7) 1.4(6) Central procurement and fleet services enterprise.~~ The chief operating officer of the enterprise is appointed by the director and directs the work of the enterprise.

~~a. The central~~ Central procurement bureau is charged with procuring goods and services for agencies pursuant to Iowa Code chapter 8A. These rules and applicable Iowa Code sections apply to the purchase of goods and services of general use by any unit of the state executive branch, except any agencies or instrumentalities of the state exempted by law.

~~b. The central~~ Central procurement bureau shall manage statewide purchasing and electronic procurement, including managing procurement of commodities, equipment and services for all state agencies not exempted by law.

~~c. The fleet~~ Fleet services bureau is responsible for the management of vehicular risk and travel requirements for state agencies not exempted by law.

ITEM 5. Amend ~~11~~—**Chapter 1**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 8A and sections 7E.1 through 7E.5 and 17A.3, and 2005 Iowa Acts, House File 776 and House File 839.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 6. Amend subrule 4.3(1) as follows:

4.3(1) Location of record. A request for access to a record under the jurisdiction of the department shall be directed to the office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to the Iowa Department of Administrative Services, Hoover State Office Building, ~~Level A~~ Third Floor, Des Moines, Iowa 50319. The department will forward the request appropriately. If a request for access to a record is misdirected, department personnel will forward the request to the appropriate person within the department.

ITEM 7. Amend paragraph **4.13(2)“I”** as follows:

l. Confidential assignments of state vehicles by the state vehicle dispatcher. These records include letters/memos detailing driver assignments and plate numbers for selected vehicles pursuant to ~~2003 Iowa Code Supplement section sections~~ 8A.362; and ~~Iowa Code section~~ 321.19(1).

ITEM 8. Amend rule 11—4.15(8A,22) as follows:

11—4.15(8A,22) Other groups of records. This rule describes groups of records maintained by the department other than record systems retrieved by individual identifiers as defined in rule 11—4.1(8A,22). The records listed may contain information about individuals. These records are routinely available to the public, subject to costs. Unless otherwise designated, the authority for the department to maintain the record is provided by ~~2003 Iowa Code Supplement~~ chapter 8A. All records may be stored on paper, microfilm, tape or in automated data processing systems unless otherwise noted.

4.15(1) to 4.15(5) No change.

4.15(6) Appeal decisions and advisory opinions. All final orders, decisions and opinions are open to the public except for information that is confidential according to rule 11—4.5(8A,17A,22) or subrule 4.13(2). These records, collected under the authority of ~~2003 Iowa Code Supplement chapter 8A,~~ and Iowa Code chapters 8A, 19B, 20, 70A, 85, 85A, 85B, 91A, 97A, 97B, 97C, and 509A₂ may contain confidential information about individuals.

4.15(7) to 4.15(21) No change.

ITEM 9. Amend subrule 5.1(1) as follows:

5.1(1) Filing. Any person or agency may file a petition for adoption of rules or request for review of rules with the Department of Administrative Services ~~Department~~, Office of the Director, Hoover State Office Building, Third Floor, Des Moines, Iowa 50319. A petition is deemed filed when it is received by the department. The department shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the department an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

<u>DEPARTMENT OF ADMINISTRATIVE SERVICES DEPARTMENT</u>	
Petition by (Name of Petitioner) for the (adoption, amendment, or repeal) of rules relating to (state the subject matter).	}
	PETITION FOR RULE MAKING

The petition must provide the following information:

a. to f. No change.

ITEM 10. Amend **11—Chapter 5**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 8A and 17A and ~~2003 Iowa Code Supplement chapter 8A.~~

ITEM 11. Amend subrule 6.4(3) as follows:

6.4(3) Copies of notices. Persons desiring to receive copies of future Notices of Intended Action by subscription must file with the department a written request indicating the name and address to which such notices should be sent. Within seven days after submission of a Notice of Intended Action to the administrative rules coordinator for publication in the Iowa Administrative Bulletin, the agency shall mail or electronically transmit a copy of that notice to subscribers who have filed a written request for

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

either mailing or electronic transmittal with the agency for Notices of Intended Action. The written request shall be accompanied by payment of the subscription price which may cover the full cost of the subscription service, including its administrative overhead and the cost of copying and mailing the Notices of Intended Action for a period of one year. Inquiries regarding the subscription price should be directed to the Department of Administrative Services Department, Office of the Director, Hoover State Office Building, ~~Level A-South~~ Third Floor, Des Moines, Iowa 50319.

ITEM 12. Amend subrule 6.11(1) as follows:

6.11(1) General. When requested by a person, either prior to the adoption of a rule or within 30 days after its publication in the Iowa Administrative Bulletin as an adopted rule, the department shall issue a concise statement of reasons for the rule. Requests for such a statement must be in writing and be delivered to the Rules Administrator, Department of Administrative Services Department, Hoover State Office Building, ~~Level A-South~~ Third Floor, Des Moines, Iowa 50319. The request should indicate whether the statement is sought for all or only a specified part of the rule. Requests will be considered made on the date received.

ITEM 13. Amend subrule 6.12(2), introductory paragraph, as follows:

6.12(2) Incorporation by reference. The department may incorporate by reference in a proposed or adopted rule, and without causing publication of the incorporated matter in full, all or any part of a code, standard, rule, or other matter if the department finds that the incorporation of its text in the department proposed or adopted rule would be unduly cumbersome, expensive, or otherwise inexpedient. The reference in the department proposed or adopted rule shall fully and precisely identify the incorporated matter by location, title, citation, date, and edition, if any; shall briefly indicate the precise subject and the general contents of the incorporated matter; and shall state that the proposed or adopted rule does not include any later amendments or editions of the incorporated matter. The department may incorporate such matter by reference in a proposed or adopted rule only if the department makes copies of it readily available to the public. The rule shall state how and where copies of the incorporated matter may be obtained at cost from the department of administrative services department, and how and where copies may be obtained from the agency of the United States, this state, another state, or the organization, association, or persons, originally issuing that matter. The department shall retain permanently a copy of any materials incorporated by reference in a rule of the department of administrative services department.

ITEM 14. Amend rule 11—7.1(8A,17A) as follows:

11—7.1(8A,17A) Scope and applicability. This chapter applies to contested case proceedings conducted by the department of administrative services department, or by the division of administrative hearings in the department of inspections and appeals on behalf of the department. Excepted from this chapter are matters covered by rule 11—60.2(8A), disciplinary actions; rule 11—61.1(8A), grievances; 11—subrule 61.2(6), appeal of disciplinary actions; rule 11—68.6(19B), discrimination complaints, including disability-related and sexual harassment complaints; matters covered by the grievance procedure in any collective bargaining agreement with state employees; matters within the exclusive jurisdiction of the industrial workers' compensation commissioner; and matters related to any of the department's vendors that administer group benefits if the vendor has an established complaint or appeal procedure. Further, the provisions of 11—Chapter 52, job classification, are exempt from subrules 7.5(4) to 7.5(7) and rules 11—7.6(8A,17A) and 11—7.8(8A,17A).

ITEM 15. Amend paragraph **7.12(3)“b”** as follows:

b. After the notice of hearing, when a matter has not been assigned to the department of inspections and appeals for hearing, all pleadings, motions, documents or other papers in a contested case proceeding shall be filed with the Department of Administrative Services Department, Hoover State Office Building, ~~Level A~~ Third Floor, Des Moines, Iowa 50319. All pleadings, motions, documents or other papers that are required to be served upon a party shall be filed simultaneously with the department.

ITEM 16. Amend paragraph **7.12(5)“d”** as follows:

d. A certification in substantially the following form:

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Department of Administrative Services, Hoover State Office Building, ~~Level A Third Floor~~, Des Moines, Iowa 50319, and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed) or (state interoffice mail).

(SIGNATURE) (DATE)

ITEM 17. Amend **11—Chapter 7**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 8A and 17A and Iowa Code Supplement ~~chapter 8A~~.

ITEM 18. Amend rule 11—8.1(17A) as follows:

11—8.1(17A) Petition for declaratory order. Any person may file a petition with the department of administrative services department for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the Department of Administrative Services Department, Hoover State Office Building, Third Floor, Des Moines, Iowa 50319, Attn: Legal Counsel. A petition is deemed filed when it is received by that office. The department of administrative services department shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the department an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

DEPARTMENT OF ADMINISTRATIVE SERVICES DEPARTMENT		
Petition by (Name of Petitioner) for a Declaratory Order on (Cite the provisions of law involved).	}	PETITION FOR DECLARATORY ORDER

The petition must provide the following information:

1. to 8. No change.

The petition must be dated and signed by the petitioner or the petitioner’s representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner’s representative and a statement indicating the person to whom communications concerning the petition should be directed.

ITEM 19. Amend rule 11—8.2(17A) as follows:

11—8.2(17A) Notice of petition. Within 15 business days after receipt of a petition for a declaratory order, the department of administrative services department shall give notice of the petition to all persons not served by the petitioner pursuant to rule 11—8.6(17A) to whom notice is required by any provision of law. The department of administrative services department may also give notice to any other persons deemed appropriate.

ITEM 20. Amend rule 11—8.3(17A) as follows:

11—8.3(17A) Intervention.

8.3(1) Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 20 days of the filing of a petition for declaratory order and before the 30-day time for department action under rule 11—8.8(17A) shall be allowed to intervene in a proceeding for a declaratory order.

- 8.3(2)** No change.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

8.3(3) A petition for intervention shall be filed with the department of administrative services department. Such a petition is deemed filed when it is received by the department. The department of administrative services department will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

<u>DEPARTMENT OF ADMINISTRATIVE SERVICES DEPARTMENT</u>		
Petition by (Name of Original Petitioner) for a Declaratory Order on (Cite the provisions of law cited in original petition).	}	PETITION FOR INTERVENTION

The petition for intervention must provide the following information:

1. to 6. No change.

The petition must be dated and signed by the intervenor or the intervenor’s representative. It must also include the name, mailing address, and telephone number of the intervenor and intervenor’s representative, and a statement indicating the person to whom communications should be directed.

ITEM 21. Amend rule 11—8.4(17A) as follows:

11—8.4(17A) Briefs. The petitioner or any intervenor may file a brief in support of the position urged. The department of administrative services department may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

ITEM 22. Amend rule 11—8.5(17A) as follows:

11—8.5(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the legal counsel for the Department of Administrative Services Department, Hoover State Office Building, Third Floor, Des Moines, Iowa 50319.

ITEM 23. Amend subrule 8.6(2) as follows:

8.6(2) Filing—when required. All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Director’s Office, Department of Administrative Services Department, Hoover State Office Building, Third Floor, Des Moines, Iowa 50319, Attn: Legal Counsel. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the department.

ITEM 24. Amend rule 11—8.7(17A) as follows:

11—8.7(17A) Consideration. Upon request by petitioner, the department of administrative services department shall schedule a brief and informal meeting between the original petitioner, all intervenors, and the department to discuss the questions raised. The department of administrative services department may solicit comments from any person on the questions raised. Also, comments on the questions raised may be submitted to the department by any person.

ITEM 25. Amend subrule 8.9(1) as follows:

8.9(1) The department shall not issue a declaratory order where prohibited by Iowa Code section 17A.9(1), and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

- a. No change.
- b. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the department of administrative services department to issue an order.
- c. The department of administrative services department does not have jurisdiction over the questions presented in the petition.
- d. to i. No change.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

j. The petitioner requests the department of administrative services ~~department~~ to determine whether a statute is unconstitutional on its face or whether any of the other conditions under Iowa Code section 17A.19 have been met.

k. No change.

ITEM 26. Amend rule 11—8.12(17A) as follows:

11—8.12(17A) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the department of administrative services ~~department~~, the petitioner, and any intervenors and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the department. The issuance of a declaratory order constitutes final agency action on the petition.

ITEM 27. Amend **11—Chapter 8**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 8A and 17A and ~~2003 Iowa Code Supplement chapter 8A.~~

ITEM 28. Amend rule **11—9.1(17A,8A)**, definition of “Department,” as follows:

“*Department*” or “*DAS*” means the department of administrative services authorized by ~~2003 Iowa Code Supplement chapter 8A.~~

ITEM 29. Amend subrule 9.4(4) as follows:

9.4(4) Special waiver or variance not permitted. The compensation rates for publication in a newspaper for any notice, order or citation or other publication required or allowed by law as determined by the state printing administrator pursuant to Iowa Code section 618.11 shall not be waived or varied. The procedure established in this chapter does not apply to waiver or variance of contractual terms or conditions; contracts shall be waived or varied only upon their own terms. These rules do not apply to the Terrace Hill commission established in ~~2003 Iowa Acts, chapter 145, section 41,~~ Iowa Code section 8A.326 or rules adopted by the commission unless these rules are adopted by the Terrace Hill commission.

ITEM 30. Amend **11—Chapter 9**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 8A and section 17A.9A and ~~2003 Iowa Code Supplement chapter 8A.~~

ITEM 31. Amend rule **11—41.1(8A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 8A.514 and 17A.4 and ~~Iowa Code Supplement section 8A.514.~~

ITEM 32. Amend paragraph **41.5(4)“a”** as follows:

a. Instate In state. Where use of a privately owned vehicle is authorized by rule 11—103.4(8A), reimbursement shall be on a mileage basis at a rate established by the director pursuant to Iowa Code ~~Supplement~~ section 8A.363. Reimbursement for travel at the official domicile will be reimbursed at a rate (established by the director pursuant to Iowa Code ~~Supplement~~ section 8A.363) per mile if the purpose of the travel is official business. The per-mile reimbursement includes all costs incurred in connection with the operation of the vehicle.

ITEM 33. Amend rule 11—41.8(8A) as follows:

11—41.8(8A) State-owned vehicle. Any expense other than parking should not be claimed on the expense voucher but should be reimbursed through procedures established by ~~the vehicle dispatcher’s office~~ fleet services.

ITEM 34. Amend **11—Chapter 41**, implementation sentence, as follows:

Rules 11—41.2(8A) to 11—41.8(8A) are intended to implement Iowa Code ~~Supplement~~ sections 8A.506 to 8A.519.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 35. Amend rule 11—42.1(8A) as follows:

11—42.1(8A) Scope and application. The department of administrative services, state accounting enterprise, is responsible for the payment of money due based on contracts with vendors for goods and services entered into by all state agencies and governmental subdivisions. Consequently, the department has implemented rules and policies to ease the administration of the payment of all obligations owed to third parties. The policies and procedures governing the payment of these obligations are set forth in the Department of Administrative Services, State Accounting Enterprise, Accounting Policies and Procedures Manual. This manual may be accessed at das.iowa.gov, or copies of the appropriate provisions may be requested and obtained by mail from State Accounting Enterprise, Department of Administrative Services, Hoover State Office Building, Third Floor, Des Moines, Iowa 50319. Provisions of the manual that affect persons outside state government are as follows:

SUBJECT MATTER	MANUAL PROVISION NUMBER
Claims:	
Refund of fees	235.550
Late vendors	235.150
Signature requirements on claims	204.150
Original invoice	204.200
Claims requirements	204.400, 204.450
Contracting—personnel services	240.102
Court-ordered claims	235.600(2)
Direct deposit of payments	270.401
Expenses of volunteers	230.500
General service contracts	240.101
Gifts to public employees	240.200
Income offset	270.850
Interest on claims	230.250
Maintenance and rental/lease agreements	240.103
Personal service contracts	240.102
Settlements—former employees	240.500
Taxes:	
Refund of motor fuel	230.150
Refund of tax to contractors	230.150
States exempt from sales tax	230.150
Travel expenses—prospective employees	204.250
Vendor issues:	
Claims requirements	204.400, 204.450
Late vendors	235.150
Nonresident alien vendors	240.400
Outdated invoices	260.250
Original invoice	204.200
Purchasing orders and payment	260.180
Refund of fees	235.550
Signature requirements on claims	204.150
Vendor codes	270.450
Warrants:	
Canceled warrants	270.550
Duplicate warrants	270.600
Forged warrants	270.750
Incorrect warrants	270.250
Outdated warrants	270.500
Stop payment on warrant	270.650

This rule is intended to implement Iowa Code Supplement section 8A.502.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 36. Amend rule **11—48.1(8A)**, implementation sentence, as follows:
This rule is intended to implement Iowa Code ~~Supplement~~ section 8A.514.

ITEM 37. Amend rule 11—48.2(8A) as follows:

11—48.2(8A) Prepayment of expenses. The following expenses may be prepaid without prior written approval from the department:

1. to 4. No change.

~~5. Yearly memberships approved by the executive council.~~

~~6. 5.~~ Maintenance contracts that have been negotiated with a clause requiring prepayment.

~~7. 6.~~ If there is documentation attached to the claim which indicates the registration must be paid prior to the function, or there is documentation attached which indicates there is a savings of at least current general fund earning rate of the state treasurer if the registration is paid in advance.

This rule is intended to implement Iowa Code ~~Supplement~~ section 8A.514.

ITEM 38. Amend rule **11—48.3(8A)**, implementation sentence, as follows:
This rule is intended to implement Iowa Code ~~Supplement~~ section 8A.514.

ITEM 39. Amend rule **11—48.4(8A)**, implementation sentence, as follows:
This rule is intended to implement Iowa Code ~~Supplement~~ section 8A.514.

ITEM 40. Amend rule 11—55.2(8A) as follows:

11—55.2(8A) Removal of names from eligible lists. The director may remove names from an eligible list for a particular job class(es) for any of the following reasons in addition to those cited in 11—subrule 54.2(6):

1. to 8. No change.

9. Violation of any of the provisions of Iowa Code ~~Supplement~~ chapter 8A or these rules. Applicants removed for this reason shall be notified in writing by the director within five workdays following removal. Appeal of removal for this reason shall be in accordance with 11—subrule 61.2(4).

10. No change.

ITEM 41. Amend **11—Chapter 55**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ sections 8A.401, 8A.402, 8A.411, 8A.413, 8A.417, 8A.418, 8A.453, 8A.455, 8A.456 and 8A.458.

ITEM 42. Amend **11—Chapter 56**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ sections 8A.401, 8A.402, 8A.411, 8A.413, 8A.414, 8A.416 to 8A.418, 8A.453, 8A.456 and 8A.458.

ITEM 43. Amend **11—Chapter 58**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ sections 8A.401, 8A.411, 8A.413, 8A.415 to 8A.418, 8A.453, 8A.456 and 8A.458.

ITEM 44. Amend **11—Chapter 59**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ sections 8A.401, 8A.402, 8A.411, 8A.413, 8A.414, 8A.417, 8A.418, 8A.439, 8A.453, 8A.456 and 8A.458.

ITEM 45. Amend **11—Chapter 61**, implementation sentence, as follows:

These rules are intended to implement 2003 Iowa Code ~~Supplement~~ section 8A.413.

ITEM 46. Amend **11—Chapter 62**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement section~~ sections 8A.413 and Iowa Code ~~section~~ 8E.207.

ITEM 47. Amend subrule **64.6(1)**, definitions of “Investment provider” and “Plan,” as follows:

“*Investment provider*” means a company authorized under this rule to issue an account or administer the records of such an account or accounts under the deferred compensation plan authorized by Iowa Code ~~section~~ sections 8A.402 and 509A.12 and 2003 Iowa Code ~~Supplement section~~ 8A.402.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

“Plan” means the state of Iowa employee contribution plan for deferred compensation as authorized by Internal Revenue Code Section 457, and Iowa Code ~~section~~ sections 8A.434 and 509A.12, and ~~2003 Iowa Code Supplement section 8A.434.~~

ITEM 48. Amend rule 11—65.2(8A) as follows:

11—65.2(8A) Restrictions on political activity of employees. All employees are prohibited from:

65.2(1) to 65.2(4) No change.

Employees of the alcoholic beverages division of the department of commerce, in addition to the foregoing subrules, are subject to the prohibitions set forth in Iowa Code section ~~123.18~~ 123.13. All employees are further subject to the provisions of Iowa Code chapter 721.

ITEM 49. Amend **11—Chapter 65**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ sections 8A.413, 8A.416 and 8A.418.

ITEM 50. Amend subrule 66.5(2) as follows:

66.5(2) Employees may contact the office of ~~the Iowa citizens’ aide at (888)426-6283~~ ombudsman to report violations of this rule.

ITEM 51. Amend **11—Chapter 66**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement section~~ sections 8A.413 and ~~Iowa Code section~~ 68B.4.

ITEM 52. Amend **11—Chapter 71**, implementation sentence, as follows:

These rules are intended to implement 2003 Iowa Code ~~Supplement~~ section 8A.432.

ITEM 53. Amend rule 11—100.4(8A) as follows:

11—100.4(8A) Use and scheduling of capitol complex facilities.

100.4(1) Scheduling conference rooms. Conference rooms, auditoriums and common areas within the capitol complex are for use by state agencies, boards and commissions for authorized purposes only. Arrangements may be made by contacting the agency responsible for scheduling the facility. The department of administrative services is responsible for scheduling all common areas not under control of other agencies. Questions about usage shall be resolved by the director of the responsible agency. ~~General questions about scheduling may be directed to the department’s customer service center at (515)242-5120.~~

100.4(2) and 100.4(3) No change.

100.4(4) Event request. State agencies or the general public may request use of capitol complex facilities, grounds or parking lots for public events by ~~contacting the director and~~ completing an application ~~provided by~~ on the department website (das.iowa.gov). This shall not be interpreted as an infringement on the right of assembly and petition guaranteed by Section 20, Article I, Constitution of Iowa.

a. to c. No change.

100.4(5) to 100.4(13) No change.

This rule is intended to implement 2003 Iowa Code ~~Supplement~~ section 8A.322.

ITEM 54. Amend rule **11—100.5(8A)**, implementation sentence, as follows:

This rule is intended to implement 2003 Iowa Code ~~Supplement section~~ sections 8A.322 and ~~Iowa Code section~~ 303.9 and chapter 216D.

ITEM 55. Amend **11—Chapter 100**, implementation sentence, as follows:

These rules are intended to implement 2003 Iowa Code ~~Supplement~~ sections 8A.104, 8A.321, and 8A.322 and ~~Iowa Code section~~ 303.9 and chapters ~~142B~~ 142D and 216D.

ITEM 56. Amend paragraph **101.12(4)“c”** as follows:

c. Instructs the operator that the operator is required for each violation to pay \$10 to the department of administrative services within 10 days by submitting the ticket or the ticket number and payment in

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

cash or a check or money order payable to the Department of Administrative Services, ~~Customer Service Center~~, Hoover State Office Building, ~~Level A~~ Third Floor, Des Moines, Iowa 50319.

ITEM 57. Amend **11—Chapter 101**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ sections 8A.322 and 8A.323.

ITEM 58. Amend rule 11—102.3(8A) as follows:

11—102.3(8A) Location. The state printing office is located at the capitol complex in Des Moines, Iowa. Correspondence shall be addressed to State Printing, Department of Administrative Services, ~~Grimes Hoover~~ State Office Building, Des Moines, Iowa 50319.

ITEM 59. Amend rule 11—102.4(8A), introductory paragraph, as follows:

11—102.4(8A) State printing. The state printing operation maintains a centralized printing facility in the ~~Grimes Hoover~~ State Office Building with satellite offices in other locations not necessarily at the capitol complex.

ITEM 60. Amend rule **11—102.7(8A,49)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 49.54.

ITEM 61. Amend rule 11—102.8(8A,618) as follows:

11—102.8(8A,618) Fees paid to newspapers. The fees paid to newspapers for official publications, notices, orders, citations or other publications required or allowed by law shall not exceed the rate set June 1 of each year by the director. The director shall calculate a new rate for the following fiscal year as prescribed in Iowa Code ~~Supplement~~ section 618.11 and shall publish this rate as a notice in the Iowa Administrative Bulletin prior to the first day of the following calendar month. The new rate shall be effective on the first day of the calendar month following its publication. The calculation and publication of the rate by the director shall be exempt from the provisions of Iowa Code chapters 17A and 25B.

This rule is intended to implement Iowa Code ~~Supplement~~ section 618.11.

ITEM 62. Amend rule **11—103.2(8A)**, definition of “Pool car,” as follows:

“Pool car” means a vehicle assigned to the state of Iowa, department of administrative services, ~~division of fleet and mail pool~~ fleet services.

ITEM 63. Amend subrule 103.16(3) as follows:

103.16(3) Agencies shall ensure that their flexible fuel vehicles that are capable of operating on 85 percent ethanol (E85) use E85 fuel whenever an E85 fueling facility is available to the driver when fuel is needed. ~~E85~~ E85 fuel may be procured at a retail establishment if a state fueling facility is not readily available. If an E85 facility is not readily available, the driver shall not completely fill the tank with fuel when a lesser quantity will be adequate to complete the trip to an E85 fueling site.

ITEM 64. Amend **11—Chapter 119**, implementation sentence, as follows:

These rules are intended to implement ~~2003~~ Iowa Code ~~Supplement~~ sections 8.47 and 8A.104.

ARC 3947C

BANKING DIVISION[187]

Notice of Intended Action

Proposing rule making related to organizational structure and providing an opportunity for public comment

The Iowa Division of Banking (IDOB) hereby proposes to amend Chapter 1, “Description of Organization,” Iowa Administrative Code.

BANKING DIVISION[187](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 524.213.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 17A.3 and 524.208.

Purpose and Summary

The proposed amendments reflect the Iowa Division of Banking's compliance with Iowa Code section 17A.7(2), which states that, as of July 1, 2012, "over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency's rules [and t]he goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies." The proposed amendments to Chapter 1 make changes so that rule 187—1.3(17A,524) more accurately reflects the current organizational structure of the IDOB.

Fiscal Impact

No current fees are being changed, and no new fees are being added; therefore, the IDOB has concluded that the proposed amendments will not have a fiscal impact to the State of Iowa.

Jobs Impact

Because no existing authorized activities are being restricted, no new activities are being authorized, no existing fees are being increased, and no new fees are being added, the IDOB has concluded that the proposed amendments will have no impact on jobs in Iowa.

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 IDOB for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

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 IDOB no later than 4:30 p.m. on September 4, 2018. Comments should be directed to:

Zak Hingst
Iowa Division of Banking
200 East Grand Avenue, Suite 300
Des Moines, Iowa 50309-1827
Phone: 515.281.4014
Email: zak.hingst@idob.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.

BANKING DIVISION[187](cont'd)

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 187—1.3(17A,524), introductory paragraph, as follows:

187—1.3(17A,524) Division of banking. The division of banking is a subdivision of the department of commerce and consists of the superintendent and those employees who discharge the duties and responsibilities imposed upon the superintendent by the laws of this state. The superintendent has general control, supervision and regulatory authority over all entities which the division is given authority to regulate pursuant to the Code of Iowa. The division consists of ~~two~~ three separate bureaus: the bank bureau, the finance bureau, and the professional licensing and regulation bureau. The bank bureau has primary responsibility relating to the supervision, regulation, and chartering of state banks. The finance bureau has primary responsibilities relating to the supervision, regulation, and licensing of appraisal management companies, closing agents, debt management businesses, delayed deposit services businesses, industrial loan companies, money services businesses, mortgage bankers, mortgage brokers, mortgage loan originators, real estate appraisers, and regulated loan companies; ~~industrial loan companies; mortgage bankers, brokers, and registrants; delayed deposit service licensees; persons engaged in the business of selling written instruments; and persons engaged in the business of debt management.~~ The professional licensing and regulation bureau has primary responsibilities relating to the regulation and licensing of specified professions by providing administrative support to and coordinating the activities of the following licensing boards: the Iowa accountancy examining board, the architectural examining board, the engineering and land surveying examining board, the interior design examining board, the landscape architectural examining board, and the real estate commission.

ITEM 2. Amend subrule 1.3(1) as follows:

1.3(1) Organization—superintendent. The superintendent is the administrator of the division. The superintendent is appointed by the governor, by and with the approval of the senate, for a term of four years. The superintendent's office is located at 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309-1827. The superintendent is assisted by the following officials who are responsible to the superintendent:

a. Bank bureau chief. The bank bureau chief performs such duties as the superintendent prescribes, including general supervision of all bank examining personnel, administration and supervision of regulatory examinations, and administration and supervision of all matters relating to the exercise of banking powers authorized by the laws of this state. ~~During the absence or disability of the superintendent, or as directed by the superintendent, a deputy superintendent who possesses the powers and performs the duties of the superintendent may be appointed by the superintendent.~~

b. Bank analysts. Bank analysts perform such duties as the superintendent prescribes, including advanced technical analysis and review of examination and financial reports of banks and bank holding companies; assessing, measuring, and monitoring the risk conditions in state banks and bank holding companies; assisting the superintendent and banking council in the analysis of applications submitted to the division for approval; and the review and analysis of bank examination reports.

c. Finance bureau chief. The finance bureau chief performs duties prescribed by the superintendent, including general supervision over all matters relating to the licensing and supervision of appraisal management companies, closing agents, debt management businesses, delayed deposit services businesses, industrial loan companies, money services businesses, mortgage bankers, mortgage brokers, mortgage loan originators, real estate appraisers, and regulated loan companies; ~~industrial~~

BANKING DIVISION[187](cont'd)

~~loan companies; mortgage bankers, brokers, and registrants; delayed deposit service licensees; persons engaged in the business of debt management; and persons engaged in the sale of written instruments.~~

~~d. Comptroller Chief operating officer. The comptroller chief operating officer performs duties prescribed by the superintendent, including management of the administrative functions, information technology needs, and fiscal affairs of the division of banking. The comptroller chief operating officer is also responsible for administration of personnel policies, work rules, payrolls, and employee benefits for all employees of the division.~~

~~e. Examiners. Regulatory Each examiner performs duties prescribed by the superintendent in a manner consistent with the laws of this state and may be predominantly trained in an area within the jurisdiction of the superintendent. Bank examinations are performed by examining personnel situated in examination regions throughout the state. Each region is headed by a supervisor regional manager who is assisted by a staff of examiners. Each examiner performs duties prescribed by the superintendent in a manner consistent with the laws of this state and may be predominantly trained in the specialized fields of commercial bank and bank holding company regulation, trust asset administration, finance company and mortgage banking regulation, data processing, and other areas within the jurisdiction of the office of the superintendent.~~

~~f. Professional licensing bureau chief. The professional licensing bureau chief performs such duties as the superintendent prescribes, including budgetary and personnel matters related to the licensing and regulation of several professions by providing administrative support to and coordinating the activities of the following licensing boards: the Iowa accountancy examining board created pursuant to Iowa Code chapter 542, the real estate commission created pursuant to Iowa Code chapter 543B, the architectural examining board created pursuant to Iowa Code chapter 544A, the landscape architectural examining board created pursuant to Iowa Code chapter 544B, the real estate appraiser examining board created pursuant to Iowa Code section 543D.4, and the interior design examining board created pursuant to Iowa Code chapter 544C.~~

ARC 3949C

BANKING DIVISION[187]**Notice of Intended Action****Proposing rule making related to application procedures and providing an opportunity for public comment**

The Iowa Division of Banking (IDOB) hereby proposes to amend Chapter 2, "Application Procedures," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 524.213.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 524.

Purpose and Summary

The proposed amendments reflect the Iowa Division of Banking's compliance with Iowa Code section 17A.7(2), which states that, as of July 1, 2012, "over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency's rules [and t]he goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies." The proposed amendments to Chapter 2 are intended to eliminate outdated requirements.

The IDOB proposes to eliminate existing requirements stating that the Superintendent must determine that a reasonable share price is being paid in a cash out merger or reverse stock split, because the IDOB

BANKING DIVISION[187](cont'd)

is able to fulfill its statutory duty to protect the interests of shareholders without engaging in the detailed analysis of these transactions currently required by rule. The IDOB proposes to rescind current rules regarding the licensing of debt management companies and is separately promulgating a new Chapter 20 (**ARC 3954C**, IAB 8/15/18) applicable to debt management companies. The IDOB proposes to eliminate a rule that imposes a notice and publication requirement in association with applications for which no statutory notice and publication requirement exists. The IDOB has concluded that this type of notice requirement is rarely invoked and adds unnecessary burden to the application process. The IDOB proposes to add rule language to clarify that an applicant may not declare the entire contents of an application confidential. Finally, the IDOB proposes several corrections to update references to statutes and certain federal guidance documents.

Fiscal Impact

No current fees are being changed, and no new fees are being added; therefore, the IDOB has concluded that the proposed amendments will not have a fiscal impact to the State of Iowa.

Jobs Impact

Because no existing authorized activities are being restricted, no new activities are being authorized, no existing fees are being increased, and no new fees are being added, the IDOB has concluded that the proposed amendments will have no impact on jobs in Iowa.

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 IDOB for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

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 IDOB no later than 4:30 p.m. on September 4, 2018. Comments should be directed to:

Zak Hingst
Iowa Division of Banking
200 East Grand Avenue, Suite 300
Des Moines, Iowa 50309-1827
Phone: 515.281.4014
Email: zak.hingst@idob.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).

BANKING DIVISION[187](cont'd)

The following rule-making actions are proposed:

ITEM 1. Rescind and reserve subrule **2.3(6)**.

ITEM 2. Amend rule **187—2.5(17A,524)**, implementation sentence, as follows:
This rule is intended to implement Iowa Code sections section 524.312 and 524.1202.

ITEM 3. Rescind and reserve subrule **2.7(3)**.

ITEM 4. Rescind and reserve subrule **2.7(4)**.

ITEM 5. Rescind and reserve rule **187—2.9(17A)**.

ITEM 6. Amend rule 187—2.12(17A,524) as follows:

187—2.12(17A,524) Supplemental application procedures.

2.12(1) Scope. ~~Subrules 2.12(2) to 2.12(14) contain~~ This rule contains procedures by which the superintendent may reach informed decisions with respect to those applications for which the superintendent shall deem a public hearing necessary. These procedures provide a method by which all persons interested in the subject matter of such applications or other cases in which a public hearing is deemed necessary may present their views. Nothing contained herein shall be construed to prevent interested persons from presenting their views in a more informal manner when deemed appropriate by the superintendent or to prevent the superintendent from conducting such other investigation as may be deemed appropriate.

2.12(2) Notice of filing of application. ~~Except in the case of proposed transactions where notice by publication is governed by statute, the applicant shall, within 15 days after the superintendent has notified the applicant in writing that an application has been accepted for processing, publish one time in a newspaper of general circulation in the community in which the applicant proposes to engage in business a notice containing the name of the applicant or applicants, the subject matter of the application, and the date upon which the application was accepted for processing. Immediately thereafter, the applicant shall furnish the superintendent with proof of such publication. The superintendent may solicit, in whatever manner deemed appropriate, comments from banks which may be affected by or have an interest in the pending application.~~

2.12(3) 2.12(2) Public file. The public file in each case shall consist of the application with supporting data and supplementary information with the exception of material deemed by the superintendent to be confidential. In addition, the public file shall contain all data and information submitted by interested persons in favor of or in opposition to such application, excluding any material deemed by the superintendent to be confidential. The superintendent or the superintendent's designee shall not deem information confidential for purposes of the two immediately preceding sentences unless the person submitting the information requests that such information be deemed confidential. All factual information contained in any internal investigation report made by a bank examiner shall also be made a part of the public file, unless deemed confidential by the superintendent. The person submitting the application may not request that the entire application be deemed confidential.

a. and b. No change.

2.12(4) Written comments and requests for an opportunity to be heard. ~~Within ten days after the notice of publication described in subrule 2.12(2), any interested person may submit to the superintendent written comments concerning the application or a written request for an opportunity to be heard before the superintendent or the superintendent's designee. The request shall state the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation to the superintendent. In the absence of a request, the superintendent, when it is believed to be in the public interest, may order a hearing to be held.~~

2.12(5) 2.12(3) Place of hearing. Hearings granted by the superintendent shall be heard in the office of the superintendent. The superintendent, in any matter, reserves the right to conduct hearings at any location deemed to be appropriate.

2.12(6) 2.12(4) Date of hearing. An opportunity to be heard shall be given as soon as practicable after ordered.

BANKING DIVISION[187](cont'd)

~~2.12(7)~~ **2.12(5)** *Notice of hearing.* The notice given by the superintendent concerning the hearing shall set forth the subject matter of the application, the legal authority for such hearing, and the date, time, and place of the hearing. The notice shall be sent to the person or persons requesting the hearing, to the applicant and to other interested persons who have sent written comments to the superintendent.

~~2.12(8)~~ **2.12(6)** *Attendance at hearing.* Each person who wishes to be heard shall notify the superintendent within five days after the date of the notice described in subrule ~~2.12(7)~~ **2.12(5)** of ~~their~~ the person's intention to attend and shall submit the number and names of witnesses to be presented.

~~2.12(9)~~ **2.12(7)** *Presiding officer.* The presiding officer at the hearing shall be the superintendent or such other person as may be designated by the superintendent.

~~2.12(10)~~ **2.12(8)** *Hearing rules.* The applicant and each participant may make opening statements of a length within the discretion of the presiding officer. Such opening statements should concisely state what the participant intends to show. The applicant shall have the opportunity to present a statement first. Following the opening statements, the applicant shall present data and materials, oral or documentary. Following the applicant's presentation, the persons protesting the application shall present their data and materials, oral or documentary. The protesters may agree, with the approval of the presiding officer, to have one of their number make their presentation. Following the evidence of the applicant and the protester, the presiding officer may recognize other interested persons who may present their views with respect to the application under consideration. After all the above presentations have been concluded, the participants before the panel may make short and concise summary statements reviewing their ~~position~~ positions. The applicant shall present a concluding summary statement.

a. to c. No change.

d. A transcript of each proceeding shall be arranged for by the ~~superintendent's office~~ person or persons requesting the opportunity to be heard, with all expenses of such service, including the furnishing of one copy of the transcript to the superintendent, being borne by the person or persons requesting the opportunity to be heard, except for hearings ordered by the superintendent's office on its own volition, in which case, the applicant will bear the expense of furnishing transcripts of the record.

e. The public file described in subrule ~~2.12(3)~~ **2.12(2)** shall automatically be deemed a part of the record of these proceedings, as well as all evidence submitted and the transcript described in paragraph ~~"d"~~ "d" of this subrule. ~~2.12(8)~~ **2.12(8)** "d."

~~2.12(11)~~ **2.12(9)** *Closing of the public file.* If requested by any participant, the public file shall remain open for five days following receipt of the transcript by the superintendent, during which time the applicant and protesters may submit additional written statements. A copy of any statement so submitted during this period of time shall also be sent simultaneously to the other persons represented at the hearing.

~~2.12(12)~~ Reserved.

~~2.12(13)~~ **2.12(10)** *Decision.* The applicant and all persons so requesting in writing shall be notified of the final disposition of the application by the superintendent.

~~2.12(14)~~ **2.12(11)** *Computation of time.* In computing any period of days provided for in this rule, the day of the event from which the period begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. As used in this subrule, "legal holiday" means a day on which the office of the superintendent remains closed.

This rule is intended to implement Iowa Code sections 17A.3, 524.305, 524.312, 524.1201, 524.1303, and 524.1403.

ITEM 7. Rescind paragraph **2.16(2)"e."**

ITEM 8. Rescind and reserve subrule **2.17(3)**.

ARC 3948C**BANKING DIVISION[187]****Notice of Intended Action****Proposing rule making related to public records and fair information practices and providing an opportunity for public comment**

The Iowa Division of Banking (IDOB) hereby proposes to amend Chapter 7, “Public Records and Fair Information Practices,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 524.213.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 22.11.

Purpose and Summary

The proposed amendments reflect the Iowa Division of Banking’s compliance with Iowa Code section 17A.7(2), which states that, as of July 1, 2012, “over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency’s rules [and t]he goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies.” The proposed amendments to Chapter 7 are intended to clarify the meaning of the chapter and to eliminate outdated requirements.

Fiscal Impact

No current fees are being changed, and no new fees are being added; therefore, the IDOB has concluded that the proposed amendments will not have a fiscal impact to the State of Iowa.

Jobs Impact

Because no existing authorized activities are being restricted, no new activities are being authorized, no existing fees are being increased, and no new fees are being added, the IDOB has concluded that the proposed amendments will have no impact on jobs in Iowa.

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 IDOB for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

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 IDOB no later than 4:30 p.m. on September 4, 2018. Comments should be directed to:

BANKING DIVISION[187](cont'd)

Zak Hingst
 Iowa Division of Banking
 200 East Grand Avenue, Suite 300
 Des Moines, Iowa 50309-1827
 Phone: 515.281.4014
 Email: zak.hingst@idob.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 **187—Chapter 7**, preamble, as follows:

The Iowa division of banking hereby adopts, with the following exceptions and amendments, ~~rules of the Governor’s Task Force on the~~ Uniform Rules of Agency Procedure relating to public records and fair information practices, which are ~~printed in the first Volume of the Iowa Administrative Code published on the Iowa general assembly’s website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf.~~

ITEM 2. Amend subrule 7.15(6) as follows:

7.15(6) Policy manuals. The agency’s employees’ manual, containing information concerning policies and procedures for programs administered by the agency, is available in the office of the agency. ~~Subscriptions to all or part of the employees’ manual are available at the cost of production and handling. Requests for subscription information should be addressed to Iowa Division of Banking, 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309-1827.~~ Policy manuals do not contain information about individuals.

ARC 3952C

BANKING DIVISION[187]

Notice of Intended Action

Proposing rule making related to general banking powers and providing an opportunity for public comment

The Iowa Division of Banking (IDOB) hereby proposes to amend Chapter 8, “General Banking Powers,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 524.213.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 12B.10 and 524.103.

BANKING DIVISION[187](cont'd)

Purpose and Summary

The proposed amendments reflect the Iowa Division of Banking's compliance with Iowa Code section 17A.7(2), which states that, as of July 1, 2012, "over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency's rules [and t]he goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies." The proposed amendments to Chapter 8 are intended to clarify the meaning of Chapter 8 and to eliminate outdated requirements.

Fiscal Impact

No current fees are being changed, and no new fees are being added; therefore, the IDOB has concluded that the proposed amendments will not have a fiscal impact to the State of Iowa.

Jobs Impact

Because no existing authorized activities are being restricted, no new activities are being authorized, no existing fees are being increased, and no new fees are being added, the IDOB has concluded that the proposed amendments will have no impact on jobs in Iowa.

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 IDOB for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

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 IDOB no later than 4:30 p.m. on September 4, 2018. Comments should be directed to:

Zak Hingst
Iowa Division of Banking
200 East Grand Avenue, Suite 300
Des Moines, Iowa 50309-1827
Phone: 515.281.4014
Email: zak.hingst@idob.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:

BANKING DIVISION[187](cont'd)

ITEM 1. Amend rule 187—8.8(12B) as follows:

187—8.8(12B) Approved rating services. Rating services approved by the superintendent as provided by Iowa Code section 12B.10 for use by the treasurer of state and the treasurer of each political subdivision in determining qualifying commercial paper investments are Moody's Investors Services, ~~New York, New York 10007~~, and Standard & Poor's, ~~Chicago, Illinois 60606~~.

This rule is intended to implement Iowa Code section 12B.10.

ITEM 2. Amend rule 187—8.9(524) as follows:

187—8.9(524) General definition of bank. It is the superintendent's intent that the term "bank" used in Iowa Code section 524.103(8) means a corporation organized under Iowa Code chapter 524 or a corporation organized under 12 U.S.C. §21. The general definition of "bank" as set forth in Iowa Code section 524.103(8) does not include a ~~state savings association~~, federal savings association, state credit union, or federal credit union.

This rule is intended to implement Iowa Code section 524.103(8).

ARC 3953C

BANKING DIVISION[187]

Notice of Intended Action

Proposing rule making related to investment and lending powers and providing an opportunity for public comment

The Iowa Division of Banking (IDOB) hereby proposes to amend Chapter 9, "Investment and Lending Powers," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 524.213.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 524.905 and 524.908.

Purpose and Summary

The proposed amendments reflect the Iowa Division of Banking's compliance with Iowa Code section 17A.7(2), which states that, as of July 1, 2012, "over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency's rules [and t]he goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies." The proposed amendments to Chapter 9 are intended to clarify the meaning of the chapter and to eliminate outdated requirements.

Fiscal Impact

No current fees are being changed, and no new fees are being added; therefore, the IDOB has concluded that the proposed amendments will not have a fiscal impact on the State of Iowa.

Jobs Impact

Because no existing authorized activities are being restricted, no new activities are being authorized, no existing fees are being increased, and no new fees are being added, the IDOB has concluded that the proposed amendments will have no impact on jobs in Iowa.

BANKING DIVISION[187](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 IDOB for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

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 IDOB no later than 4:30 p.m. on September 4, 2018. Comments should be directed to:

Zak Hingst
Iowa Division of Banking
200 East Grand Avenue, Suite 300
Des Moines, Iowa 50309-1827
Phone: 515.281.4014
Email: zak.hingst@idob.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 rule 187—9.2(17A,524) as follows:

187—9.2(17A,524) Real estate lending. This rule is promulgated to provide more uniformity with the final guidelines adopted by the Federal Deposit Insurance Corporation, the Federal Reserve System, and the Department of the Treasury. This rule shall apply to real estate loans either originated by the state bank or acquired by purchase, assignment, or otherwise.

9.2(1) to 9.2(3) No change.

9.2(4) Reserved.

9.2(5) 9.2(4) Evidence of title. The state bank shall obtain, when lending for the purpose of acquisition or for the purpose of refinance of acquisition when a new mortgage, deed of trust, or similar instrument is filed, either one of the following:

a. A written legal opinion by an attorney admitted to practice in the state in which the real estate is located showing marketable title in the mortgagor and describing any existing liens and stating that the state bank’s mortgage, deed of trust, or similar instrument is a lien on the real estate, ~~or~~. An Iowa title guaranty certificate issued by the Iowa title guaranty division of the Iowa finance authority satisfies this requirement.

b. Title If the real property is located in a state other than Iowa, title insurance written by an insurance company licensed to do business in the state in which the real property is located, describing

BANKING DIVISION[187](cont'd)

any existing liens and insuring the title to the real property and the validity and enforceability of the mortgage, deed of trust, or similar instrument as a lien on the real property.

~~9.2(6) Insurance. Rescinded IAB 3/2/05, effective 4/6/05.~~

~~9.2(7) Disclosures. Rescinded IAB 3/2/05, effective 4/6/05.~~

~~9.2(8)~~ **9.2(5) Exceptions.** There are certain real estate transactions in which other factors significantly outweigh the need to apply the provisions of this rule. Therefore, the following transactions are exempt from this rule:

a. to e. No change.

~~9.2(9)~~ **9.2(6) Exempted transactions.** In addition to the exemptions set forth in subrule ~~9.2(8)~~ **9.2(5)**, it may be appropriate, in light of all relevant credit considerations, including community reinvestment factors, for state banks, in certain instances, to originate or purchase real estate loans that do not meet the requirements of this rule. State banks shall be allowed to make such loans; however, the aggregate amount of all real estate loans that fall into this category shall not exceed aggregate capital as reflected on the state bank's most recent consolidated report of condition, unless prior approval to exceed this limitation has been obtained from the superintendent. These exempted loans must be identified by the board of directors by name and outstanding balance and must be reviewed by the board no less frequently than annually. Examiners, during the course of their examinations, will determine whether these exempted loans are adequately documented and appropriate in light of overall safety and soundness considerations. No real estate loans to directors, officers, or principal shareholders or their related interests shall be allowed in the exempted category of this subrule.

This rule is intended to implement Iowa Code section 524.905.

ITEM 2. Amend paragraph **9.3(2)“k”** as follows:

k. All lease receivables shall be booked in accordance with ~~each report~~ the instructions for preparation of the consolidated reports of condition and income.

ITEM 3. Rescind paragraph **9.3(3)“b.”**

ITEM 4. Reletter paragraph **9.3(3)“c”** as **9.3(3)“b.”**

ARC 3951C

BANKING DIVISION[187]

Notice of Intended Action

Proposing rule making related to contested cases and providing an opportunity for public comment

The Iowa Division of Banking (IDOB) hereby proposes to amend Chapter 11, “Contested Cases,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 524.213.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 17A.

Purpose and Summary

The proposed amendments reflect the Iowa Division of Banking's compliance with Iowa Code section 17A.7(2), which states that, as of July 1, 2012, “over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency's rules [and t]he goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies.” The proposed amendments to Chapter 11 are intended to clarify the discovery process and applicability of the rules of civil procedure

BANKING DIVISION[187](cont'd)

in contested cases and to enable communications and submissions pertaining to a contested case via telephone, email, and other electronic means.

Fiscal Impact

No current fees are being changed, and no new fees are being added; therefore, the IDOB has concluded that the proposed amendments will not have a fiscal impact to the State of Iowa.

Jobs Impact

Because no existing authorized activities are being restricted, no new activities are being authorized, no existing fees are being increased, and no new fees are being added, the IDOB has concluded that the proposed amendments will have no impact on jobs in Iowa.

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 IDOB for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

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 IDOB no later than 4:30 p.m. on September 4, 2018. Comments should be directed to:

Zak Hingst
Iowa Division of Banking
200 East Grand Avenue, Suite 300
Des Moines, Iowa 50309-1827
Phone: 515.281.4014
Email: zak.hingst@idob.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 rule 187—11.1(17A) as follows:

187—11.1(17A) Scope and applicability of the Iowa Rules of Civil Procedure. Except when inconsistent with Iowa Code chapter 524, this chapter applies to contested case proceedings conducted by the ~~Division of Banking~~ division of banking. Except as expressly provided in Iowa Code chapter 17A and these rules, the Iowa Rules of Civil Procedure do not apply to contested case proceedings.

BANKING DIVISION[187](cont'd)

However, upon application by a party, the division may permit the use of procedures provided for in the Iowa Rules of Civil Procedure unless doing so would unreasonably complicate the proceedings or impose an undue hardship on a party.

ITEM 2. Amend rule **187—11.2(17A)**, definitions of “Contested case” and “Presiding officer,” as follows:

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under ~~1998 Iowa Acts, chapter 1202, section 14~~ Iowa Code section 17A.10A.

“*Presiding officer*” means the superintendent of banking, the superintendent’s designee or, under certain circumstances, ~~the~~ an administrative law judge.

ITEM 3. Amend subrule 11.5(2) as follows:

11.5(2) Contents. The notice of hearing shall contain the following information:

- a. A statement of the time, place, and nature of the hearing;
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. A reference to the particular sections of the statutes and rules involved;
- d. A short and plain statement of the matters asserted. If the division or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished;
- e. Identification of all parties including the name, address, and telephone number of the person who will act as advocate for the division or the state and of parties’ counsel where known;
- f. Reference to the procedural rules governing conduct of the contested case proceeding;
- g. Reference to the procedural rules governing informal settlement;
- h. Identification of the presiding officer, if known. If not known, a description of who will serve as presiding officer (e.g., superintendent, superintendent’s designee, administrative law judge from the department of inspections and appeals); ~~and~~
- i. Notification of the time period in which a party may request, pursuant to ~~1998 Iowa Acts, chapter 1202, section 15(1),~~ Iowa Code section 17A.11 and rule 187—11.6(17A), that the presiding officer be an administrative law judge;
- j. A statement requiring the respondent to submit an answer of the type specified in subrule 11.11(2) within 20 days after service of the notice of hearing;
- k. Information on whom to contact if, because of a disability, auxiliary aids or services are needed to enable a person to participate in the matter;
- l. If applicable, the date, time, and manner of conduct of a prehearing conference under rule 187—11.16(17A); and
- m. The mailing address and email address for filing with the division and notice of the option of email service as provided in subrule 11.12(6).

ITEM 4. Amend rule 187—11.8(17A) as follows:

187—11.8(17A) Telephone and electronic proceedings. The presiding officer may resolve preliminary procedural motions by telephone conference or other electronic means in which all parties have an opportunity to participate. Other ~~telephone~~ proceedings may be held by telephone or other electronic means with the consent of all parties. The presiding officer will determine the location of the parties and witnesses for ~~telephone~~ hearings held by telephone or other electronic means. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen. Disciplinary hearings will generally not be held by telephone or electronic means in the absence of consent by all parties, but the presiding officer may permit any witness to testify by telephone or other electronic means. Parties shall disclose at or prior to the prehearing conference whether any witness will be testifying by telephone or other electronic means. Objections, if any, shall be filed with the division and served on all parties at least three business days in advance of hearing.

BANKING DIVISION[187](cont'd)

ITEM 5. Amend rule 187—11.9(17A) as follows:

187—11.9(17A) Disqualification.

11.9(1) A presiding officer or other person shall withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- a. Has a personal bias or prejudice concerning a party or a representative of a party;
- b. Has personally investigated, prosecuted or advocated in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;
- c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;
- d. Has acted as counsel to any person who is a private party to that proceeding within the past two years;
- e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;
- f. Has a spouse or relative within the third degree of relationship that: (1) is a party to the case, or an officer, director or trustee of a party; (2) is a lawyer in the case; (3) is known to have an interest that could be substantially affected by the outcome of the case; or (4) is likely to be a material witness in the case; or
- g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

11.9(2) The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other division functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case. A person voluntarily appearing before the division waives any objection to a division staff member’s participation in the appearance and later participation as a decision maker or aid to the decision maker in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section ~~17A.17 as amended by 1998 Iowa Acts, chapter 1202, section 19,~~ 17A.17(3) and subrules 11.9(3) and 11.23(9).

11.9(3) In a situation where a presiding officer or other person knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

11.9(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 11.9(1), the party shall file a motion supported by an affidavit pursuant to ~~1998 Iowa Acts, chapter 1202, section 19(7)~~ Iowa Code sections 17A.11(3) and 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party.

11.9(5) If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but must establish the grounds by the introduction of evidence into the record.

11.9(6) A motion to disqualify a division staff member or other person shall first be directed to the affected division staff member or other person for determination. If the division staff member or other person determines that disqualification is appropriate, the division staff member or other person shall withdraw from further participation in the case. If the division staff member or other person determines that withdrawal is not required, the presiding officer shall promptly review that determination, provided that, if the person at issue is an administrative law judge, the review shall be by the division. If the presiding officer determines that disqualification is appropriate, the presiding officer or other person

BANKING DIVISION[187](cont'd)

shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal under rule 187—11.25(17A), if applicable, and seek a stay under rule 187—11.29(17A).

ITEM 6. Amend subrule 11.11(2) as follows:

11.11(2) Answer. An answer shall be filed within 20 days of service of a petition unless otherwise ordered. A party may move to dismiss or apply for a more definite and detailed statement when appropriate.

~~An~~ Unless otherwise provided in the notice of hearing, an answer shall show on whose behalf it is filed and specifically admit, deny, or otherwise answer all material allegations of the pleading to which it responds. It shall state any facts deemed to show an affirmative defense and contain as many additional defenses as the pleader may claim.

~~An~~ Unless otherwise provided in the notice of hearing, an answer shall state the name, address and telephone number of the person filing the answer, the person or entity on whose behalf it is filed, and the attorney representing that person, if any.

Any allegation in the petition not denied in the answer is considered admitted. The presiding officer may refuse to consider any defense not raised in the answer which could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

ITEM 7. Amend subrule 11.12(4) as follows:

11.12(4) Filing—*how and when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the division of banking, delivered to an established courier service for immediate delivery to that office, ~~or~~ mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing, or delivered by electronic transmission to the email address specified in the notice of hearing. Filing by electronic transmission is complete upon transmission unless the party making the filing learns the attempted filing did not reach the division. The division will not provide a mailed file-stamped copy of documents that are filed by email or other approved electronic means.

ITEM 8. Adopt the following **new** subrule 11.12(6):

11.12(6) Electronic service. The presiding officer may by order or a party or a party's attorney may by consent permit service of particular documents by email or similar electronic means, unless precluded by a provision of law. In the absence of such an order or consent, electronic transmission shall not satisfy service requirements but may be used to supplement service when rapid notice is desirable. Consent to electronic service by a party or a party's counsel shall be in writing, may be accomplished through electronic transmission to the board and other parties, and shall specify the email address for such service. Service by electronic transmission is complete upon transmission unless the board or party making service learns the attempted service did not reach the party to be served.

ITEM 9. Amend rule 187—11.13(17A) as follows:

187—11.13(17A) Discovery.

~~11.13(1) Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure. The scope of discovery described in Iowa Rule of Civil Procedure 1.503 shall apply to contested case proceedings.~~

~~11.13(2) Any motion relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 11.13(1). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion. The following discovery procedures available in the Iowa Rules of Civil Procedure are available to the parties in a contested case proceeding: depositions upon oral examination or written questions; written interrogatories; production of documents, electronically stored information, and things; and requests for admission. The time frames for discovery in the specific Iowa Rules of Civil~~

BANKING DIVISION[187](cont'd)

Procedure govern those specific procedures, unless they are lengthened or shortened by the presiding officer.

a. Iowa Rules of Civil Procedure 1.701 through 1.717 regarding depositions shall apply to any depositions taken in a contested case proceeding. Any party taking a deposition in a contested case shall be responsible for any deposition costs, unless otherwise specified or allocated in an order. Deposition costs include, but are not limited to, reimbursement for mileage of the deponent, costs of a certified shorthand reporter, and expert witness fees, as applicable.

b. Iowa Rule of Civil Procedure 1.509 shall apply to any interrogatories propounded in a contested case proceeding.

c. Iowa Rule of Civil Procedure 1.512 shall apply to any requests for production of documents, electronically stored information, and things in a contested case proceeding.

d. Iowa Rule of Civil Procedure 1.510 shall apply to any requests for admission in a contested case proceeding. Iowa Rule of Civil Procedure 1.511 regarding the effect of an admission shall apply in contested case proceedings.

~~11.13(3) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding. The mandatory disclosure and discovery conference requirements in Iowa Rules of Civil Procedure 1.500 and 1.507 do not apply to contested case proceedings. However, upon application by a party, the presiding officer may order the parties to comply with these procedures unless doing so would unreasonably complicate the proceedings or impose an undue hardship. As a practical matter, the purpose of the disclosure requirements and discovery conference is served by the division's obligation to supply the information that is described in Iowa Code section 17A.13(2) upon request while a contested case is pending and by the mutual exchange of information that is required in a prehearing conference under rule 187—11.16(17A).~~

11.13(4) Iowa Rule of Civil Procedure 1.508 shall apply to discovery of any experts identified by a party to a contested case proceeding.

11.13(5) Discovery shall be served on all parties to the contested case proceeding but shall not be filed with the division.

11.13(6) A party may file a motion to compel or other motion related to discovery in accordance with this subrule. Any motion filed with the division relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is lengthened or shortened by the presiding officer. The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

~~11.13(7) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.~~

ITEM 10. Amend paragraph **11.14(1)“a”** as follows:

a. A division subpoena shall be issued to a party on request. Such a request must be in writing. In the absence of good cause for permitting later action, a request for a subpoena must be received at least three days before the scheduled hearing. The request shall include the name, address, email address, and telephone number of the requesting party.

ITEM 11. Amend rule 187—11.16(17A) as follows:

187—11.16(17A) Prehearing conference and disclosures.

11.16(1) Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion shall be filed not less than seven days prior to the hearing date. A prehearing conference shall be scheduled not less than three business days prior to the hearing date.

Written notice of the prehearing conference shall be given by the presiding officer to all parties. For good cause the presiding officer may permit variances from this rule.

11.16(2) Each party shall bring disclose at or prior to the prehearing conference:

BANKING DIVISION[187](cont'd)

a. A final list of the witnesses who the party anticipates will testify at hearing. Witnesses not listed may be excluded from testifying unless there was good cause for the failure to include their names; and

b. A final list of exhibits which the party anticipates will be introduced at hearing. Exhibits other than rebuttal exhibits that are not listed may be excluded from admission into evidence unless there was good cause for the failure to include them.

c. Witness or exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the presiding officer at the prehearing conference. Any such amendments must be served on all parties.

11.16(3) In addition to the requirements of subrule 11.16(2), the parties at a prehearing conference may:

a. Enter into stipulations of law or fact;

b. Enter into stipulations on the admissibility of exhibits;

c. Identify matters which the parties intend to request be officially noticed;

d. Enter into stipulations for waiver of any provision of law; and

e. Consider any additional matters which will expedite the hearing.

11.16(4) Prehearing conferences shall be conducted by telephone unless otherwise ordered. Parties shall exchange and receive witness and exhibit lists in advance of a telephone prehearing conference. Unless otherwise provided in the order setting a prehearing conference, the prehearing conference shall be conducted by an administrative law judge.

11.16(5) The parties shall exchange copies of all exhibits marked for introduction at hearing in the manner provided in subrule 11.21(4) no later than three business days in advance of hearing, or as ordered by the presiding officer at the prehearing conference.

ITEM 12. Amend rule 187—11.20(17A) as follows:

187—11.20(17A) Hearing procedures.

11.20(1) The presiding officer presides at the hearing, and may rule on motions, require briefs, issue a proposed decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings.

11.20(2) All objections shall be timely made and stated on the record.

11.20(3) Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Partnerships, corporations, or associations may be represented by any member, officer, director, shareholder, or duly authorized agent. Any party may be represented by an attorney, or another person authorized by law, at the party's expense.

11.20(4) Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

11.20(5) The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

11.20(6) Witnesses may be sequestered during the hearing.

11.20(7) The presiding officer shall conduct the hearing in the following manner:

a. The presiding officer shall give an opening statement briefly describing the nature of the proceedings;

b. The parties shall be given an opportunity to present opening statements;

c. Parties shall present their cases in the sequence determined by the presiding officer;

d. Each witness shall be sworn or affirmed by the presiding officer or the court reporter, and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law;

e. When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

11.20(8) Depositions may be used at hearing to the extent permitted by Iowa Rule of Civil Procedure 1.704.

BANKING DIVISION[187](cont'd)

11.20(9) Witnesses are entitled to be represented by an attorney at their own expense. The attorney may assert legal privileges personal to the client but may not make other objections. The attorney may only ask questions of the client to prevent a misstatement from entering the record.

11.20(10) The parties in a contested case shall be responsible for any witness fees and expenses incurred by witnesses appearing at the contested case hearing, unless otherwise specified or allocated in an order. The costs for lay witnesses shall be determined in accordance with Iowa Code section 622.69. The costs for expert witnesses shall be determined in accordance with Iowa Code section 622.72. Witnesses are entitled to reimbursement for mileage and may be entitled to reimbursement for meals and lodging, as incurred.

ITEM 13. Amend subrule 11.21(4) as follows:

11.21(4) The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties. All exhibits admitted into evidence shall be appropriately marked and be made part of the record. The state's exhibits shall be marked numerically, and the applicant's or respondent's exhibits shall be marked alphabetically.

~~All exhibits admitted into evidence shall be appropriately marked and be made part of the record.~~

ITEM 14. Amend subrule 11.22(6) as follows:

11.22(6) "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure ~~236~~ 1.971.

ITEM 15. Amend subrule 11.27(1) as follows:

11.27(1) *Appeal by party*. Any adversely affected party may appeal a proposed decision to the superintendent within 30 days after issuance of the proposed decision. Such an appeal is required to exhaust administrative remedies and is a jurisdictional prerequisite to seeking judicial review.

ITEM 16. Amend paragraph **11.29(1)"b"** as follows:

b. Any party to a contested case proceeding may petition the division of banking for a stay or other temporary remedies pending judicial review of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy. Seeking a stay from the division is required to exhaust administrative remedies prior to seeking a stay from the district court.

ITEM 17. Amend subparagraph **11.31(2)"b"(5)** as follows:

(5) ~~Fax~~ Electronic service. Fax or email may be used as the sole method of delivery if the person required to comply with the order has filed a written request that division orders be sent by fax or email and has provided a fax number or email address for that purpose.

ITEM 18. Amend ~~187~~—**Chapter 11**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A ~~as amended by 1998 Iowa Acts, chapter 1202.~~

ARC 3950C

BANKING DIVISION[187]

Notice of Intended Action

Proposing rule making related to uniform waiver and variance and providing an opportunity for public comment

The Iowa Division of Banking (IDOB) hereby proposes to amend Chapter 12, "Uniform Waiver and Variance Rules," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 524.213.

BANKING DIVISION[187](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 17A.9A and chapter 524.

Purpose and Summary

The proposed amendments reflect the Iowa Division of Banking's compliance with Iowa Code section 17A.7(2), which states that, as of July 1, 2012, "over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency's rules [and t]he goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies." The proposed amendments to Chapter 12 are intended to update statutory references to reflect the correct authority for the rules.

Fiscal Impact

No current fees are being changed, and no new fees are being added; therefore, the IDOB has concluded that the proposed amendments will not have a fiscal impact to the State of Iowa.

Jobs Impact

Because no existing authorized activities are being restricted, no new activities are being authorized, no existing fees are being increased, and no new fees are being added, the IDOB has concluded that the proposed amendments will have no impact on jobs in Iowa.

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 IDOB for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

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 IDOB no later than 4:30 p.m. on September 4, 2018. Comments should be directed to:

Zak Hingst
Iowa Division of Banking
200 East Grand Avenue, Suite 300
Des Moines, Iowa 50309-1827
Phone: 515.281.4014
Email: zak.hingst@idob.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

BANKING DIVISION[187](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 rule **187—12.1(17A,ExecOrd11)**, parenthetical implementation statute, as follows:

187—12.1(17A,ExecOrd11 524) Scope of chapter.

ITEM 2. Amend rule **187—12.2(17A,ExecOrd11)**, parenthetical implementation statute, as follows:

187—12.2(17A,ExecOrd11 524) Superintendent discretion.

ITEM 3. Amend rule **187—12.3(17A,ExecOrd11)**, parenthetical implementation statute, as follows:

187—12.3(17A,ExecOrd11 524) Requester's responsibilities in filing a waiver or variance petition.

ITEM 4. Amend rule **187—12.4(17A,ExecOrd11)**, parenthetical implementation statute, as follows:

187—12.4(17A,ExecOrd11 524) Notice.

ITEM 5. Amend rule **187—12.5(17A,ExecOrd11)**, parenthetical implementation statute, as follows:

187—12.5(17A,ExecOrd11 524) Superintendent's responsibilities regarding petition for waiver or variance.

ITEM 6. Amend rule **187—12.6(17A,ExecOrd11)**, parenthetical implementation statute, as follows:

187—12.6(17A,ExecOrd11 524) Public availability.

ITEM 7. Amend rule **187—12.7(17A,ExecOrd11)**, parenthetical implementation statute, as follows:

187—12.7(17A,ExecOrd11 524) Voiding or cancellation.

ITEM 8. Amend rule **187—12.8(17A,ExecOrd11)**, parenthetical implementation statute, as follows:

187—12.8(17A,ExecOrd11 524) Violations.

ITEM 9. Amend rule **187—12.9(17A,ExecOrd11)**, parenthetical implementation statute, as follows:

187—12.9(17A,ExecOrd11 524) Defense.

ITEM 10. Amend rule **187—12.10(17A,ExecOrd11)**, parenthetical implementation statute, as follows:

187—12.10(17A,ExecOrd11 524) Appeals.

ITEM 11. Amend rule **187—12.11(17A,ExecOrd11)**, parenthetical implementation statute, as follows:

187—12.11(17A,ExecOrd11 524) Summary reports.

BANKING DIVISION[187](cont'd)

ITEM 12. Amend ~~187—Chapter 12~~, implementation sentence, as follows:
These rules are intended to implement ~~Executive Order Number 11~~ and Iowa Code section 17A.9A and chapter 524.

ARC 3954C

BANKING DIVISION[187]

Notice of Intended Action

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

The Iowa Division of Banking (IDOB) hereby proposes to adopt new Chapter 20, “Debt Management,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 533A.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 533A.

Purpose and Summary

The proposed rules establish the details of the procedures for an application for a debt management license; renewal of an existing debt management license; submission of required notices regarding changes in name, location, or control of a licensee; and complaints, investigations, and disciplinary actions. The proposed rules also establish record-keeping requirements for licensees. The proposed rules specifically instruct licensees and applicants regarding the requirements to use the nationwide multistate licensing system to apply for and maintain debt management licenses. The nationwide multistate licensing system makes the licensing process faster, easier, and more uniform for both licensees and the licensing staff who process applications and other submissions. In the interest of making state government more efficient and transparent, the structure of these rules is very similar to the structure of the Iowa Division of Banking’s rules applicable to other nondepository financial institutions.

Fiscal Impact

No existing fees are being altered, and no new fees are being added, so the IDOB has concluded that the proposed rules will have no fiscal impact to the State of Iowa.

Jobs Impact

No existing authorized activities are being restricted, no new activities are being authorized, no existing fees are being increased, and no new fees are being added. The IDOB has therefore concluded that the proposed rules should not have an impact on jobs in Iowa.

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 IDOB for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

BANKING DIVISION[187](cont'd)

Public Comment

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

Zak Hingst
Iowa Division of Banking
200 East Grand Avenue, Suite 300
Des Moines, Iowa 50309-1827
Phone: 515.281.4014
Email: zak.hingst@idob.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 action is proposed:

Adopt the following **new** 187—Chapter 20:

CHAPTER 20
DEBT MANAGEMENT

187—20.1(17A,533A) Definitions. For the purposes of this chapter, the definitions in Iowa Code chapter 533A shall apply. In addition, unless the context otherwise requires:

“*Debt management business*” means a person that performs debt management as defined in Iowa Code section 533A.1(2) or debt settlement as defined in Iowa Code section 533A.1(3).

“*Nationwide multistate licensing system*” or “*NMLS*” means a multistate licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of nondepository financial institutions.

“*Upon completion of a settlement of a debtor’s debt*” means when all of the payments necessary to completely satisfy a debtor’s debt have been remitted to the creditor.

187—20.2(17A,533A) Utilization of the NMLS. All application and licensing information shall be submitted through the NMLS including but not limited to the following: original application information; changes in application information; license renewal information; changes in name, location, and control; and notices of significant events. The applicant or licensee shall pay any fees required by the NMLS including but not limited to the following: system processing fees, background check fees, and credit background check fees.

BANKING DIVISION[187](cont'd)

187—20.3(17A,533A) Application for license.

20.3(1) An application for a license to operate a debt management business in Iowa shall be submitted to the superintendent, on the form provided and with the information requested, through the NMLS. The superintendent may consider an application withdrawn if it does not contain all of the information required and the missing information is not submitted to the superintendent within 30 days after the superintendent requests the missing information. The applicant may also request that the application be withdrawn at any time before the superintendent has decided to grant or deny the application.

20.3(2) Each officer, director, and individual who has control of an applicant must provide fingerprints, authorize a fingerprint background check through the NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation.

20.3(3) The applicant shall submit with the application an application fee of \$100 and an initial license fee of \$250. The superintendent shall refund the initial license fee if the application is denied, but the application fee is not subject to refund.

20.3(4) If any information material to the application changes after the applicant files the initial application, the applicant shall provide updated information to the superintendent within ten days of the change. When such a material change in information has occurred, the superintendent may deny an application if the applicant fails to provide updated information within the prescribed time frame.

20.3(5) An applicant for a license to operate a debt management business must file with the superintendent a \$25,000 surety bond in compliance with the provisions of Iowa Code section 533A.2(4).

20.3(6) Licenses expire on the next December 31 after they are issued, but licenses granted on or after November 1 but before January 1 will not expire until December 31 of the following year. For example, a license granted on November 17, 2017, would not expire until December 31, 2018.

187—20.4(17A,533A) Grounds for approval or denial.

20.4(1) The superintendent shall approve or deny a license application in accordance with the provisions of Iowa Code section 533A.3.

20.4(2) The following may be considered evidence that the business of the applicant may not be operated lawfully and honestly consistent with the purposes of Iowa Code chapter 533A and may therefore be considered grounds for denial of an application:

a. An applicant, or an officer, director, or individual who has control of an applicant, has had a mortgage loan originator license or any lending license revoked in any governmental jurisdiction.

b. An applicant, or an officer, director, or individual who has control of an applicant, has been convicted of, or pled guilty or no contest to, a felony in a domestic, foreign, or military court if such felony involved an act of fraud, dishonesty, or breach of trust, or money laundering.

187—20.5(17A,533A) Renewal of license.

20.5(1) To remain authorized to operate a debt management business, a licensee must renew a license before the expiration date of the license. A licensee who fails to renew a license before the expiration date is not authorized to operate a debt management business in Iowa after the expiration date.

20.5(2) An application to renew a license shall be submitted to the superintendent, on the form provided and with the information requested, through the NMLS by December 1 of the year of expiration. For example, for a license that will expire on December 31, 2017, an application for renewal shall be submitted by December 1, 2017. All requested information, including any material change to information contained in the original application, shall be provided to the superintendent. The superintendent may assess late fees of up to \$10 per day for applications submitted and accepted for processing after December 1.

20.5(3) The superintendent shall grant an application to renew a license if:

BANKING DIVISION[187](cont'd)

a. The licensee submits the application and the appropriate renewal fee by December 1 or the licensee submits the application after December 1 but before January 1 and pays the appropriate renewal fee and the appropriate late fee;

b. The application is fully completed and includes all necessary information; and

c. The application does not reveal grounds to deny a license.

20.5(4) It is within the discretion of the superintendent to reject for processing a renewal application submitted after December 31 or to treat such an application as an application for a new license. A licensee who fails to renew a license before the expiration date is not authorized to operate a debt management business in Iowa after the expiration date.

187—20.6(17A,533A) Changes in the licensee's name, location, or control.

20.6(1) A licensee wishing to change the name or location of a debt management business shall notify the superintendent at least 30 days prior to the requested change. The request shall include proof that the licensee has either obtained a new bond or amended the existing bond to reflect the new name or location. The licensee shall submit a \$25 fee per license in conjunction with the request. A licensee may not operate a debt management business under a different name without providing such notice and submitting the required fee.

20.6(2) A licensee wishing to establish a branch office must submit the application to the superintendent, on the form provided and with the information requested, through the NMLS, along with a fee of \$250. Licenses issued to branch offices are treated as independent licenses and are subject to the renewal requirements, fees, and procedures specified in rule 187—20.5(17A,533A).

20.6(3) When change in control of a licensee is proposed, the party that will assume control of the licensee shall give notice to the superintendent at least 60 days before the proposed change will take effect. Change in control is defined in Iowa Code section 533A.5A. The party that will assume control of the licensee shall furnish the superintendent with the same information required of initial applicants for a license, along with a fee of \$100. The party that will assume control may be required to provide fingerprints, authorize a fingerprint background check through the NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation. The superintendent shall approve or deny the request in accordance with the provisions of Iowa Code section 533A.3.

20.6(4) Failure to notify the superintendent within the prescribed time as required by this rule may subject the licensee to disciplinary action.

187—20.7(17A,533A) Notice of significant events. A licensee shall notify the superintendent immediately and in writing within ten days of the occurrence of any of the following events.

20.7(1) The licensee or any of the licensee's officers, directors, principal stockholders, or affiliates file for bankruptcy protection or commence reorganization proceedings.

20.7(2) A prosecuting authority files criminal charges against the licensee or any of the licensee's officers, directors, principal stockholders, or affiliates.

20.7(3) Another state or jurisdiction institutes license denial, cease and desist, suspension or revocation procedures, or other formal or informal regulatory action against the licensee or any of the licensee's officers, directors, principal stockholders, or affiliates.

20.7(4) The attorney general of Iowa, the Federal Trade Commission, or the enforcer of the consumer protection laws of any other jurisdiction initiates an action to enforce the consumer protection laws against the licensee or any of the licensee's officers, directors, principal stockholders, or affiliates.

187—20.8(17A,533A) Administrative fees.

20.8(1) *Examination or investigation fees.* A licensee shall pay an investigation or examination fee as determined by the superintendent based on the actual cost of the operation of the finance bureau of the banking division, as described in Iowa Code section 533A.10(1).

20.8(2) *Late fees for failing to respond.* In the process of administering this chapter, the superintendent may require a person to provide responses to formal orders, examinations, or complaint

BANKING DIVISION[187](cont'd)

inquiries. If a person fails to respond within 30 days of the request, the superintendent may assess a penalty of \$10 per day after the initial 30 days.

20.8(3) NMLS system processing fees. In addition to the fees set forth in this chapter, the applicant or licensee shall pay any fee assessed by the NMLS attributed to the licensee's record in the NMLS including but not limited to the initial set-up fee and annual processing fee.

187—20.9(17A,533A) Licensee records.

20.9(1) General record requirements. A licensee must keep records that allow the superintendent to determine the licensee's compliance with relevant statutes and regulations.

- a. The licensee may keep the records as a hard copy or in an electronic equivalent.
- b. The licensee shall keep records for at least 36 months from the date of the final transaction with the debtor.
- c. The licensee shall maintain all books and records in good order and shall produce books and records for the superintendent upon request. Failure to produce such books and records within 30 days of the superintendent's request may be grounds for disciplinary action against the licensee.
- d. The obligation to maintain records continues even after the licensee ceases business operations in Iowa and turns in or surrenders its license. The owners and directors of the licensee are responsible for ensuring that this requirement is met.

20.9(2) Required records. A licensee operating a debt management business shall keep, at its principal place of business, an index, a client log, an account file, and an account ledger.

20.9(3) Index. All records kept by a debt management business shall be accessible by the debtor's name and account number.

20.9(4) Client log. The client log is a chronological list of active and inactive clients. The client log shall include the name of the client, the account number, the date the account was opened, the date the account was closed, and the expiration date of the account.

20.9(5) Account file. The account file consists of the application, the licensee's comprehensive review of the debtor's debts and monthly budget as required by Iowa Code section 533A.8(2), a copy of the debt management contract, and all disclosures to the debtor required by Iowa Code section 533A.8(3).

20.9(6) Account ledger. A licensed debt management business whose debt management program is based on a model which requires the licensee or any licensee to receive money or evidences thereof from the debtor to distribute to the debtor's creditors shall maintain an account ledger for each debtor, which shall show:

- a. The name and address of the debtor, the account number, the amount of the debtor's outstanding debts, and the total of payments the debtor has made to the licensee.
- b. A transaction history that lists all transactions with the debtor and the debtor's creditors. Payments from the debtor shall be posted to the account ledger, effective the date the payments were received, and shall show the date payment was received and the total amount of the payment. Payments to the debtor's creditors made from the debtor's account shall be posted to the account ledger effective the date the payments were made. The account ledger shall show the date the payment was made, the total amount of the payment, and a description of how the payment was applied to the debtor's account. Fees that the licensee deducts from the debtor's account shall be posted to the account ledger effective the date the fees were collected, and the account ledger shall show the date the fees were collected and the total amount of fees collected. Other transactions shall be fully described. Corrections to the transaction history shall be made by corrective entry and not by erasure.

20.9(7) General business records. A licensee must keep the following general business records for at least 36 months:

- a. All checkbooks, check registers, bank statements, deposit slips, withdrawal slips, and canceled checks (or copies thereof) relating to the debt management business of the licensee.
- b. Complete records (including invoices and supporting documentation) for all expenses and fees paid on behalf of each applicant for debt management or debt settlement, including a record of the date and amount of all such payments actually made by each applicant.

BANKING DIVISION[187](cont'd)

c. Copies of all federal tax withholding forms, reports of income for federal taxation, and evidence of payments to all employees, independent contractors, and others compensated by a licensee in connection with the conduct of the debt management business.

d. All correspondence and other records relating to the maintenance of any surety bond required by Iowa Code chapter 533A.

e. Copies of all reports of audits, examinations, inspections, reviews, investigations, or other similar functions performed by any third party, including but not limited to the superintendent or any other regulatory or supervisory authority.

f. Copies of all advertisements and solicitations concerning debt management or debt settlement directed at Iowa residents, including advertisements and solicitations on the Internet or by other electronic means, in the format (e.g., recorded sound, video, print) in which the advertisements and solicitations were published or distributed.

20.9(8) Disposal of records. If a licensee or former licensee disposes of records at the end of the retention period, the licensee or former licensee shall dispose of the records in a reasonable manner that safeguards any identification information, as defined in Iowa Code section 715A.8(1) "a." The owners and directors of licensees and former licensees are responsible for ensuring that this requirement is met.

187—20.10(17A,533A) Complaints and investigations.

20.10(1) The superintendent may, at any time and as often as the superintendent deems necessary, investigate a licensee and examine the licensee's books, accounts, records, and files.

20.10(2) The superintendent may investigate complaints about, or alleged violations by, any licensee.

20.10(3) The following shall constitute a complaint or alleged violation:

a. A written complaint received from a consumer, member of the public, employee, business affiliate, or governmental agency.

b. Notice to the superintendent from any source that the licensee has been the subject of disciplinary proceedings in another jurisdiction.

c. Notice to the superintendent from any source that the licensee has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, or other similar offense, in a court of competent jurisdiction in this state or in any other state, territory, or district of the United States, or in any foreign jurisdiction.

187—20.11(17A,533A) Disciplinary action.

20.11(1) The superintendent has authority pursuant to Iowa Code chapters 533A and 17A to impose discipline for violations of Iowa Code chapter 533A and the rules promulgated thereunder.

20.11(2) Grounds for discipline. The superintendent may impose any of the disciplinary sanctions set out in Iowa Code section 533A.7(2) when the superintendent finds any of the following:

a. The licensee has violated a provision of Iowa Code chapter 533A or a rule adopted under Iowa Code chapter 533A or any other state or federal law applicable to the conduct of the licensee's business.

b. A fact or condition exists which, had it existed at the time of the licensee's original application for a license, would have warranted the superintendent to refuse to issue the original license.

c. The licensee is found upon investigation to be insolvent, in which case the license shall be revoked immediately.

d. The licensee has violated an order of the superintendent.

e. The licensee fails to fully cooperate with an examination or investigation, including failing to respond to an inquiry from the superintendent within 30 days of the date the superintendent mails a written communication directed to the licensee's last-known address on file with the superintendent.

f. The licensee has engaged in any conduct that subverts or attempts to subvert an examination or investigation by the superintendent.

g. The licensee continues to operate a debt management business without an active and current license.

BANKING DIVISION[187](cont'd)

- h.* The licensee operates a debt management business in the same location as another business without the superintendent's written approval.
 - i.* The licensee has abandoned its place of business for 60 or more days.
 - j.* The licensee fails to notify the superintendent within ten days of the occurrence of one of the significant events set forth in rule 187—20.7(17A,533A).
 - k.* Another state or jurisdiction has denied, suspended, revoked, or refused to renew the licensee's license, registration, or authorization to operate a debt management business under the other state's or jurisdiction's law.
 - l.* The licensee fails to create and maintain complete and accurate records as required by state or federal law, regulation, or rule.
 - m.* The licensee fails to notify the superintendent of a change in ownership, name, or principal place of business.
 - n.* The licensee fails to pay a license fee required by Iowa Code chapter 533A or to maintain a bond required by Iowa Code chapter 533A.
- 20.11(3)** The superintendent shall not refund a license fee, in whole or in part, for a license that has been suspended, revoked, or surrendered.

187—20.12 Reserved.

187—20.13(17A,533A) Restrictions on operating a debt management business. A licensee shall adhere to the following restrictions related to operating a debt management business.

20.13(1) Licensees shall not engage in any of the acts prohibited by Iowa Code section 533A.11.

20.13(2) Licensees may not establish branch locations outside the United States.

These rules are intended to implement Iowa Code chapter 533A.

ARC 3938C**COLLEGE STUDENT AID COMMISSION[283]****Notice of Intended Action****Proposing rule making related to all Iowa opportunity scholarships and providing an opportunity for public comment**

The College Student Aid Commission hereby proposes to amend Chapter 8, "All Iowa Opportunity Scholarship 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 2018 Iowa Acts, House File 2502, sections 80 and 81.

Purpose and Summary

The proposed amendments reflect changes to Iowa Code section 261.87 that were enacted in 2018 Iowa Acts, House File 2502, sections 80 and 81. Section 80 defines "eligible surviving-child student," and section 81 provides students who meet that definition with second priority for awards under the All Iowa Opportunity Scholarship Program.

Fiscal Impact

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

COLLEGE STUDENT AID COMMISSION[283](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 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 4, 2018. Comments should be directed to:

Karen Misjak

Executive Director

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: karen.misjak@iowa.gov or via the Iowa administrative rules website: rules.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** definition of “Eligible surviving-child student” in rule **283—8.2(261)**:

“*Eligible surviving-child student*” means a person who is under age 26, or under age 30 if the student is a veteran who is eligible for or has exhausted benefits under the federal Post-9/11 Veterans Educational Assistance Act of 2008; who is not a convicted felon as defined in Iowa Code section 910.15; and who meets any of the following criteria:

1. Is the child of a peace officer, as defined in Iowa Code section 97A.1, who was killed in the line of duty as determined by the board of trustees of the Iowa department of public safety peace officers’ retirement, accident, and disability system in accordance with Iowa Code section 97A.6(16).

2. Is the child of a police officer or fire fighter, as defined in Iowa Code section 411.1, who was killed in the line of duty as determined by the statewide fire and police retirement system in accordance with Iowa Code section 411.6(15).

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

3. Is the child of a sheriff or deputy sheriff, as defined in Iowa Code section 97B.49C, who was killed in the line of duty as determined by the Iowa public employees' retirement system in accordance with Iowa Code section 97B.52(2).

4. Is the child of a fire fighter or police officer included under Iowa Code section 97B.49B, who was killed in the line of duty as determined by the Iowa public employees' retirement system in accordance with Iowa Code section 97B.52(2).

ITEM 2. Amend subrule 8.4(2) as follows:

8.4(2) Priority for grants. Only applicants with expected family contributions (EFCs) at or below the average tuition and fees for regent university students for the academic year for which awards are being made will be considered for awards.

a. All eligible new and renewal foster care students will receive first priority for funding. Awards to eligible foster care students will be made based on EFC levels within the parameters defined by the commission, with students in the lowest EFC levels awarded first and at increasing EFC levels until the maximum EFC level is reached. If all students in a given EFC level cannot be funded, students will be ranked according to the date the state application was filed.

b. All new and renewal eligible surviving-child students will receive second priority for funding. Awards to eligible surviving-child students will be made based on EFC levels within the parameters defined by the commission, with students in the lowest EFC levels awarded first and at increasing EFC levels until the maximum EFC level is reached. If all students in a given EFC level cannot be funded, students will be ranked according to the date the state application was filed.

~~*b. c.*~~ *c.* All eligible renewal applicants will receive ~~second~~ third priority for funding. Awards to renewal applicants will be made based on EFC levels within the parameters defined by the commission, with students in the lowest EFC levels awarded first and at increasing EFC levels until the maximum EFC level is reached. If all students in a given EFC level cannot be funded, students will be ranked according to the date the state application was filed.

~~*e. d.*~~ *d.* If funding remains after all eligible foster care students, eligible surviving-child students, and renewal students have been awarded, ~~third~~ fourth priority will be given to students who participated in federal TRIO programs, participated in alternative programs in high school, or graduated from alternative high schools. Awards will be made to students in this category based on EFC levels within the parameters defined by the commission, with students in the lowest EFC levels awarded first and at increasing EFC levels until the maximum EFC level is reached. If all students in a given EFC level cannot be funded, students will be ranked according to the date the state application was filed.

~~*d. e.*~~ *e.* If funding remains after all priority applicants have been awarded, ~~fourth~~ fifth priority will be given to students who participated in federal GEAR UP programs. Awards will be made to students in this category based on EFC levels within the parameters defined by the commission, with students in the lowest EFC levels awarded first, followed by awards to students at increasing EFC levels until the maximum EFC level is reached. If all students in a given EFC level cannot be funded, students will be ranked according to the date the state application was filed.

~~*e. f.*~~ *f.* If funding is available, awards to remaining eligible applicants will be made based on EFC levels within the parameters defined by the commission, with students in the lowest EFC levels awarded first, followed by awards to students at increasing EFC levels until the maximum EFC level is reached. If all students in a given EFC level cannot be funded, students will be ranked according to the date the state application was filed.

ARC 3940C

COLLEGE STUDENT AID COMMISSION[283]

Notice of Intended Action

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

The College Student Aid Commission hereby proposes to amend Chapter 20, “Iowa National Guard Educational Assistance 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 and 2018 Iowa Acts, Senate File 2415, section 14.

Purpose and Summary

This proposed amendment reflects changes to Iowa Code section 261.86 that were enacted in 2018 Iowa Acts, Senate File 2415, section 14. Section 14 requires recipients of the Iowa National Guard Educational Assistance Program to complete the Free Application for Federal Student Aid (FAFSA) to apply for state and federal nonrepayable aid.

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 4, 2018. Comments should be directed to:

Karen Misjak

Executive Director

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: karen.misjak@iowa.gov or administrative rules website at 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:

Amend subrule 20.1(2) as follows:

20.1(2) *Guard member eligibility.* A recipient must:

- a. Be a resident of Iowa, as defined by the adjutant general of Iowa, and a member of an Iowa army or air national guard unit throughout each term for which the member receives benefits.
- b. Have satisfactorily completed required guard training.
- c. Have maintained satisfactory performance of guard duty.
- d. Have applied to the adjutant general of Iowa for program eligibility by the established application deadline date(s) by completing the Free Application for Federal Student Aid (FAFSA) and any other application form required. The adjutant general shall accept an application from an eligible member of the Iowa national guard who was on federal active duty at the time of an application deadline if the application is received within 30 days after the eligible member returns to Iowa from federal active duty. The applicant will be considered for funding for the state-defined payment period in which the application was received and any future state-defined payment periods in that academic year.
- e. Be pursuing a certificate or undergraduate degree program at an eligible Iowa college or university and maintaining satisfactory academic progress.
- f. Provide notice of national guard status to the college or university at the time of registration.

ARC 3941C

COLLEGE STUDENT AID COMMISSION[283]

Notice of Intended Action

Proposing rule making related to waivers and postponement provisions and providing an opportunity for public comment

The College Student Aid Commission hereby proposes to amend Chapter 25, “Rural Iowa Advanced Registered Nurse Practitioner and Physician Assistant 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 and 2018 Iowa Acts, Senate File 2415, sections 16 and 17.

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

Purpose and Summary

These proposed amendments reflect changes to Iowa Code section 261.114 that were enacted in 2018 Iowa Acts, Senate File 2415, sections 16 and 17. Section 16 repeals a provision related to a full-time practice waiver, and section 17 repeals provisions related to postponement of the service obligation.

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 4, 2018. Comments should be directed to:

Karen Misjak
Executive Director
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: karen.misjak@iowa.gov or administrative rules website at rules.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 283—25.5(261) as follows:

283—25.5(261) Waivers.

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

25.5(1) Service commitment area. The commission may waive the requirement that the advanced registered nurse practitioner or physician assistant practice in the same service commitment area for five years. The advanced registered nurse practitioner or physician assistant must request a waiver from the commission in writing.

~~**25.5(2) Full-time employment.** The commission may waive the requirement that the advanced registered nurse practitioner or physician assistant be employed full-time if the advanced registered nurse practitioner or physician assistant demonstrates exceptional circumstances. The advanced registered nurse practitioner or physician assistant must request a waiver from the commission in writing. If a waiver request is granted by the commission, the agreement will be amended to provide an allowance for part-time employment. The five-year employment obligation will be proportionally extended to ensure the advanced registered nurse practitioner or physician assistant is employed in a service commitment area for the equivalent of five full-time years.~~

~~**25.5(3) Postponement of advanced registered nurse practitioner or physician assistant employment.** The advanced registered nurse practitioner or physician assistant obligation to engage in practice in accordance with 25.3(4) may be postponed for no more than two years from the time full-time practice was to commence. The advanced registered nurse practitioner or physician assistant 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 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 advanced registered nurse practitioner or physician assistant obligation to engage in practice in accordance with 25.3(4) 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 advanced registered nurse practitioner or physician assistant is unable to engage in full-time practice. The advanced registered nurse practitioner or physician assistant must request a waiver from the commission in writing.~~

~~**25.5(4) 25.5(2) Satisfaction of advanced registered nurse practitioner or physician assistant employment.** All obligations under the rural Iowa advanced registered nurse practitioner and physician assistant loan repayment program are considered to be satisfied when any of the following conditions are met:~~

- ~~a. to d. No change.~~

ITEM 2. Amend **283—Chapter 25**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 261.114 as amended by 2014 Iowa Acts, Senate File 2347 2018 Iowa Acts, Senate File 2415.

ARC 3939C

COLLEGE STUDENT AID COMMISSION[283]

Notice of Intended Action

Proposing rule making related to health care loan repayment program and providing an opportunity for public comment

The College Student Aid Commission hereby proposes to adopt new 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.

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 261 and 2018 Iowa Acts, Senate File 2415, section 20.

Purpose and Summary

The proposed chapter implements a new loan repayment program enacted in 2018 Iowa Acts, Senate File 2415, section 20.

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 4, 2018. Comments should be directed to:

Karen Misjak
Executive Director
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: karen.misjak@iowa.gov or administrative rules website at rules.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

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

Adopt the following new 283—Chapter 26:

CHAPTER 26
HEALTH CARE LOAN REPAYMENT PROGRAM

283—26.1(261) Health care loan repayment program. The health care loan repayment program is a state-supported and state-administered program established to repay the qualified student loans of nurse educators teaching at eligible Iowa colleges and universities, as well as applicants who agree to practice as registered nurses, advanced registered nurse practitioners, or physician assistants in service commitment areas for five consecutive years, and who meet the requirements of these rules.

283—26.2(261) Definitions. As used in this chapter:

“Advanced registered nurse practitioner” means an individual who graduated from an accredited graduate or postgraduate advanced practice educational program, is licensed by the board of nursing as a registered nurse, is licensed by the board of nursing as an advanced registered nurse practitioner, and is employed as an advanced registered nurse practitioner in an eligible service commitment area.

“Nurse educator” means a registered nurse who holds a master’s or doctorate degree and is employed by an Iowa community college, an accredited private institution defined in Iowa Code section 261.9, or an institution of higher learning governed by the state board of regents as a faculty member who teaches nursing as provided in 655—Chapter 2 at a nursing program approved by the board of nursing pursuant to Iowa Code section 152.5.

“Physician assistant” means an individual who graduated with a master’s degree, holds a practitioner’s license to practice as a physician assistant pursuant to Iowa Code chapter 148C, and is employed as a physician assistant in an eligible service commitment area.

“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.

“Registered nurse” means a nurse who is licensed by the board of nursing as a registered nurse and is employed as a registered nurse in an eligible service commitment area.

“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.

283—26.3(261) Eligibility requirements.

26.3(1) An eligible applicant must be an advanced registered nurse practitioner, nurse educator, physician assistant, or registered nurse.

26.3(2) An eligible applicant must annually complete and file an application for the program by the deadline established by the commission. If funds remain available after the application deadline, the commission will continue to accept applications.

26.3(3) An eligible applicant must annually complete and return to the commission an affidavit of practice verifying full-time employment, as defined by the employer, in a service commitment area during the entire year as an advanced registered nurse practitioner, physician assistant, or registered nurse, or full-time employment, as defined by the employer, as a nurse educator.

283—26.4(261) Awarding of funds.

26.4(1) Selection criteria. All completed applications received on or before the published deadline will be considered for funding. To the extent possible, an equal number of new advanced registered nurse practitioners, nurse educators, physician assistants, and registered nurses will be offered awards based on the availability of appropriated funds. In the event that funding is insufficient to award all eligible applicants within an occupation category, criteria for selection of eligible applicants within each occupation category will be prioritized as follows:

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

a. Renewal status. Recipients of awards through the registered nurse and nurse educator loan forgiveness program during the 2018 state fiscal year will be eligible for funding under the health care loan repayment program if the eligible applicants meet the eligibility criteria of the health care loan repayment program. Under this provision, no recipient will receive more than five consecutive awards between the registered nurse and nurse educator loan forgiveness program and the health care loan repayment program;

b. Iowa residency status;

c. Members of the Iowa national guard, if requested by the adjutant general.

(1) Members of the Iowa national guard are exempt from the service commitment area requirement, and

(2) Members of the Iowa national guard must have satisfactorily completed required guard training and must maintain satisfactory performance of guard duty;

d. Date of application.

26.4(2) Annual award. The maximum annual award shall be the lesser of:

a. \$6,000, or

b. Twenty percent of the eligible applicant's total outstanding qualified student loan.

26.4(3) Extent of repayment. Eligible applicants may receive loan repayment for no more than five consecutive years. Eligible applicants who fail to receive loan repayment awards in consecutive years will not be considered for subsequent years of loan repayment.

26.4(4) Disbursement of loan repayment funds.

a. Loan repayment awards will be disbursed upon completion of the year for which the award was approved and upon certification from the employer that the advanced registered nurse practitioner, nurse educator, physician assistant, or registered nurse was employed full-time, as defined by the employer, during the entire year and completed the year in good standing.

b. Loan repayment awards will be distributed to the eligible applicant's student loan holder and applied directly to qualified student loans.

283—26.5(261) Loan repayment cancellation.

26.5(1) An eligible applicant who has been designated for a loan repayment award shall notify the commission within 30 days following termination or cessation of full-time practice in a service commitment area as an advanced registered nurse practitioner, physician assistant, or registered nurse, or termination or cessation of full-time employment as a nurse educator.

26.5(2) A recipient of an award is responsible for notifying the commission immediately of a change in name, place of employment, or home address.

283—26.6(261) Restrictions. An advanced registered nurse practitioner, nurse educator, physician assistant, or registered nurse who is in default on a qualified student loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for loan repayment benefits. 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.

These rules are intended to implement Iowa Code section 261.116 as amended by 2018 Iowa Acts, Senate File 2415.

ARC 3946C

**ENGINEERING AND LAND SURVEYING EXAMINING
BOARD[193C]**

Notice of Intended Action

**Proposing rule making related to review of agency's rules and providing an opportunity
for public comment**

The Engineering and Land Surveying Examining Board hereby proposes to amend Chapter 1, "Administration," Chapter 3, "Application and Renewal Process," Chapter 4, "Engineering Licensure," Chapter 5, "Land Surveying Licensure," Chapter 7, "Professional Development," Chapter 8, "Professional Conduct of Licensees," Chapter 9, "Complaints, Investigations and Disciplinary Action," Chapter 10, "Peer Review," Chapter 11, "Minimum Standards for Property Surveys," and Chapter 12, "Minimum Standards for U.S. Public Land Survey Corner Certificates," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 542B.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 542B.

Purpose and Summary

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

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

Jobs Impact

After analysis and review of this rule making, there is a potential impact on jobs. The proposed amendment to 4.1(2)"c" decreases from 25 to 10 the required years of experience necessary for a waiver of the Fundamentals of Engineering (FE) examination. This change may make Professional Engineering (PE) licensure available to a larger group of candidates.

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on September 5, 2018. Comments should be directed to:

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

Robert Lampe
 Iowa Engineering and Land Surveying Examining Board
 200 East Grand Avenue, Suite 350
 Des Moines, Iowa 50309
 Phone: 515.725.9024
 Email: robert.lampe@iowa.gov

Public Hearing

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

September 5, 2018	Board Office, Suite 350
9 to 10:30 a.m.	200 East Grand Avenue
	Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 1.1(1) as follows:

1.1(1) Administration. Administration of the board has not been separated into panels, divisions, or departments. While the expertise of a board member may be called upon to frame special examinations and evaluate applications for licensing in a specialized engineering branch, the board functions in a unified capacity on all matters that may come before it. The board maintains an office at ~~1920 S.E. Hulsizer Road, Ankeny, Iowa 50021~~ 200 East Grand Avenue, Suite 350, Des Moines, Iowa 50309, and requests or submissions may be directed to the secretary of the board at that location.

ITEM 2. Amend subrule 1.1(2) as follows:

1.1(2) Meetings. Regular meetings of the board are held in ~~Ankeny~~ Des Moines, Iowa. Information concerning the location and dates for meetings may be obtained from the board's office at ~~1920 S.E. Hulsizer Road, Ankeny, Iowa 50021~~ 200 East Grand Avenue, Suite 350, Des Moines, Iowa, or by telephoning ~~(515)281-4126~~ (515)725-9022.

ITEM 3. Adopt the following **new** definition of "Retired" in rule **193C—1.2(542B)**:

"Retired" means that a professional engineer or land surveyor is not engaged in the practice of engineering or land surveying or earning monetary compensation by providing professional engineering or land surveying services in any licensing jurisdiction of the United States or a foreign country.

ITEM 4. Amend subrule 3.1(1) as follows:

3.1(1) Application expiration. On the examination ~~application and comity applications~~ due date, the ~~examination application is~~ applications are considered current if it has been one year or less since it was signed and notarized. ~~A comity application expires one year from the date that it was signed and notarized~~ the applications were received by the board office.

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

ITEM 5. Amend subrule 3.2(2) as follows:

3.2(2) *Fundamentals of Land Surveying examination application components and due dates.* The components of this application include: the completed, ~~notarized~~ application form; ² references pursuant to 193C—paragraph 5.1(5)“b”²; and transcripts. Fundamentals of Land Surveying examination applications must be submitted to the board office. Applications submitted by the first day of each month will be reviewed by the board at the next regularly scheduled board meeting.

ITEM 6. Amend subrule 3.2(3) as follows:

3.2(3) *Principles and Practice examination application components and due dates.* Principles and Practice of Engineering and Principles and Practice of Land Surveying examination applications require a detailed review and must, therefore, be submitted to the board office, ~~postmarked on or before July 15 of each year for the examination given in the fall and on or before January 15 of each year for the examination given in the spring.~~ To facilitate the transition to computer-based testing offered throughout the year, application files with all required components submitted to the board office by the first day of each month will be reviewed at the next regularly scheduled board meeting. The Principles and Practice examination application packet, ~~including~~ includes the following components, ~~must be postmarked on or before the deadline date:~~ (1) the completed, ~~notarized and signed~~ online application form; ² (2) the required number of references; ² (3) the project statement; ² and (4) the ethics questionnaire. In addition, a complete application file must include verification of examination records and transcripts. Examination applications will not be reviewed by the board until the application file is complete. Since the verification of examination records must be sent directly from the jurisdiction where the applicant took the Fundamentals of Engineering examination, the applicant should contact the other jurisdiction well in advance of the deadline for submittal of the application to request this verification ~~in order to ensure that the verification is received by the board no later than July 25 for the fall examination or by January 25 for the spring examination.~~ For transcripts, the applicant should contact the university well in advance of the deadline for submittal of the application to ensure that the transcripts are received ~~no later than July 25 for the fall examination or by January 25 for the spring examination.~~ Examination application files that are not complete by January 25 will not be reviewed for the spring examination. Likewise, examination applications that are not complete by July 25 will not be reviewed for the fall examination by the deadline.

ITEM 7. Adopt the following new subrule 3.4(12):

3.4(12) *Retired status.* Licensees who are not engaged in the practice of engineering or land surveying or earning monetary compensation by providing professional engineering or land surveying services in any licensing jurisdiction of the United States or a foreign country may be granted retired status during the open online renewal. There is no fee for retired status. Retired status allows the individual to use the title “PE retired” or “PLS retired.” Applicants do not need to reinstate an expired license to be eligible for retired status. Applicants may apply for retired status on forms provided by the board. The board will not provide a refund of biennial license fees if an application for retired status is granted in a biennium in which the applicant has previously paid the biennial fees for either active or inactive status. Persons licensed in retired status are exempt from the renewal requirement. Once retired status is granted, a license may not be reactivated for any reason.

ITEM 8. Amend paragraph **4.1(2)“c”** as follows:

c. An applicant who graduated from a satisfactory engineering program and has ~~25~~ 10 years or more of work experience satisfactory to the board shall not be required to take the FE exam.

ITEM 9. Amend paragraph **4.1(6)“a”** as follows:

a. *Fundamentals of Engineering examination (fundamentals examination).* The Fundamentals of Engineering examination is a ~~written~~ computer-based examination covering general engineering principles and other subjects commonly taught in accredited engineering programs.

ITEM 10. Amend paragraph **4.1(6)“b”** as follows:

b. *Principles and Practice of Engineering examination (professional examination).* The Principles and Practice of Engineering examination is a ~~written~~ computer-based examination designed

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

to determine proficiency and qualification to engage in the practice of professional engineering only in a specific branch. The Principles and Practice of Engineering two-module Structural examination is a ~~written~~ computer-based examination designed to determine proficiency and qualification to engage in the practice of structural engineering. A separate examination shall be required for each branch in which licensure is granted. An applicant may obtain a Structural branch license by passing either the Principles and Practice of Engineering Civil (Structural) examination or the Principles and Practice of Engineering two-module Structural examination.

ITEM 11. Amend subparagraph **4.2(3)“b”(1)** as follows:

(1) An applicant who graduated from a satisfactory engineering program and who has ~~25~~ 10 years or more of work experience satisfactory to the board shall not be required to take the Fundamentals of Engineering examination.

ITEM 12. Amend paragraph **4.2(4)“b”** as follows:

b. For applicants who were originally licensed in another jurisdiction and who meet the requirements of Iowa Code section ~~542B.14(1)(a)(3)~~ 542B.14(1)“a”(1)(c), the board will employ the following chart to determine if the applicant’s licensure was granted after satisfaction of requirements substantially equivalent to those which were required by Iowa Code section 542B.14 at the time of the applicant’s original licensure. Column 1 indicates the years of practical experience that were required prior to the Fundamentals of Engineering examination in addition to the completion of the required educational level. To determine the total years of practical experience that were required prior to taking the Principles and Practice of Engineering examination, column 2 is added to column 1.

EXPERIENCE REQUIREMENTS FOR COMITY APPLICANTS Who meet the requirements of Iowa Code section 542B.14(1)(a)(3) <u>542B.14(1)“a”(1)(c)</u>		
If the applicant’s educational level was:	The applicant must have had the following additional years of experience prior to taking the Fundamentals of Engineering examination:	The applicant must have had the following years of experience after receipt of the qualifying degree and prior to taking the Principles and Practice of Engineering examination:
College or junior college (mathematics or physical sciences)		
Two years	6	4
Three years	5	4
Four-year BS degree	3	4
Four-year BS degree plus master’s degree in engineering	0	4
All engineering technology programs and architecture		
Two years	6	4
Three years	5	4
Four-year degree, nonaccredited technology or BA in architecture	3	4
Four-year degree, accredited technology	2	4
Four-year degree or more, bachelor of architecture	2	4
Four-year BS degree, technology or architecture plus master’s degree in engineering	0	4
Engineering program, nonaccredited		
Two years	6	4
Three years	3	4

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

EXPERIENCE REQUIREMENTS FOR COMITY APPLICANTS Who meet the requirements of Iowa Code section 542B.14(1)(a)(3) 542B.14(1)“a”(1)(c)		
If the applicant’s educational level was:	The applicant must have had the following additional years of experience prior to taking the Fundamentals of Engineering examination:	The applicant must have had the following years of experience after receipt of the qualifying degree and prior to taking the Principles and Practice of Engineering examination:
Four-year BS degree	1	4
Four-year BS degree plus master’s degree in engineering	0	4
Engineering program, accredited		
Two years	6	4
Three years	3	4
Four-year BS degree	0	4

ITEM 13. Amend paragraph **5.1(3)“a”** as follows:

a. To qualify to take this examination, the applicant must present a record of four years or more of practical experience in land surveying work which is of a character satisfactory to the board and which includes a minimum of one year of field experience. This experience must have been obtained after the receipt of the qualifying education and prior to the application due date for the examination. This practical experience is in addition to the initial experience required prior to taking the Fundamentals of Land Surveying examination.

ITEM 14. Amend subrule 5.1(7), introductory paragraph, as follows:

5.1(7) Practical experience requirements. Practical land surveying experience, of which a minimum of 25 percent is field experience, is required prior to licensing. The purpose of this requirement is to ensure that the applicant has acquired the professional judgment, capacity and competence to determine land boundaries. The following criteria will be considered by the board in determining whether an applicant’s experience satisfies the statutory requirements.

ITEM 15. Amend paragraph **5.1(8)“a”** as follows:

a. *Fundamentals examination*. The Fundamentals of Land Surveying examination is a written computer-based examination covering general surveying principles.

ITEM 16. Rescind paragraph **5.1(8)“b.”**

ITEM 17. Reletter paragraphs **5.1(8)“c”** to **“h”** as **5.1(8)“b”** to **“g.”**

ITEM 18. Amend relettered subparagraph **5.1(8)“d”(4)** as follows:

(4) An applicant who has failed two consecutive examinations of the state-specific portion of the professional land surveying examination shall not be allowed to retake the state-specific portion for ~~the next two years~~ one year in order for the applicant to acquire the necessary skill and knowledge to successfully pass the examination.

ITEM 19. Amend subrule 5.2(1) as follows:

5.2(1) *References*. An applicant for licensure by comity shall submit ~~three~~ one or more professional land surveyor references on forms provided by the board, at least two of which shall be from licensed professional land surveyors to verify the number of years of satisfactory experience required with the applicant’s level of education. The board reserves the right to contact employers for information about the applicant’s professional experience and competence.

ITEM 20. Amend paragraph **7.3(1)“i”** as follows:

i. Attendance at ~~satellite down-link~~ online video courses;

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

ITEM 21. Amend subrule 7.4(1) as follows:

7.4(1) Group 1 activities. Group 1 activities are intended to maintain, improve, or expand skills and knowledge obtained prior to initial licensure. The following chart illustrates the maximum PDH allowable per renewal period for Group 1 activities:

Type of course/activity	Number of PDH allowed per renewal period
Mathematics and basic sciences Math beyond Trigonometry Basic sciences: Chemistry, Physics, Life sciences, Earth sciences	10 PDH
Engineering sciences Mechanics, Thermodynamics, Electrical and electrical circuits, Materials science, *Computer science *Courses in computer science will generally be considered a part of the Engineering Sciences category in the ABET criterion and, therefore, limited to a maximum of 10 PDH per renewal period.	10 PDH
Humanities and social sciences Philosophy, Religion, History, Literature, Fine arts, Sociology, Psychology, Political science, Anthropology, Economics, Foreign languages, Professional ethics, Social responsibility	5 PDH
Engineering curriculum Engineering-related courses Accounting, Industrial management, Finance, Personnel administration, Engineering economy, English, Speech, *Computer applications *Courses in CAD and fundamental computer applications will generally not be applicable in either Group 1 or Group 2 activities. The computer is viewed as a tool available to the engineer or land surveyor, much as a pencil or hand-held calculator is a tool. Only computer courses that have the solution of engineering or land surveying problems as a purpose will be considered acceptable. An example of this might be a course that trains an engineer in the utilization of a specific software package to perform structural analysis. The concept of the computer as a tool does not apply to a computer engineer. *The computer is considered a tool available to engineers and land surveyors. Courses related to computer drafting and general computer applications are generally not applicable to either Group 1 or Group 2 activities. Computer courses that relate to engineering or land surveying design applications, such as structural design/analysis software, are considered acceptable.	10 PDH

ITEM 22. Amend subrule 7.8(1) as follows:

7.8(1) Record keeping. Maintaining records to be used to support professional development hours claimed is the responsibility of the licensee. It is recommended that each licensee keep a log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned. Documentation of reported PDHs shall be maintained by the licensee for two years after the period for which the form was submitted.

ITEM 23. Amend subrule 7.8(2) as follows:

7.8(2) Compliance review. The board may select licensees for review of compliance with continuing education requirements on a random basis or upon receiving information regarding noncompliance and shall review compliance with continuing education requirements for reinstatement of lapsed or inactive licenses. Each licensed board member shall be audited for PDH compliance for a biennium that is within each member's respective three-year appointment terms. For each ~~professional development hour~~ PDH claimed, licensees chosen for compliance review shall furnish:

- a. Proof of attendance. Attendance verification records in the form of completion certificates, or other documents supporting evidence of attendance;
- b. Verification of the hours claimed; and
- c. Information about the course content.

ITEM 24. Amend subrule 7.8(3) as follows:

7.8(3) Compliance review sanctions. Any discrepancy between the number of PDHs reported and the number of PDHs actually supported by documentation may result in a disciplinary review. If, after the disciplinary review, the board disallows any PDH, or the licensee has failed to complete the required PDHs, the licensee shall have 60 days from board notice to either provide further evidence of having

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

completed the PDHs disallowed or remedy the discrepancy by completing the required number of PDHs (provided that such PDHs shall not again be used for the next renewal). Extension of time may be granted on an individual basis and must be requested by the licensee within 30 days of notification by the board. If the licensee fails to comply with the requirements of this subrule, the licensee may be subject to disciplinary action. If the board finds, after proper notice and hearing, that the licensee willfully disregarded these requirements or falsified documentation of required PDHs, the licensee may be subject to disciplinary action as further identified in 193C—paragraphs 9.3(1) “c” and 9.3(3) “e.”

ITEM 25. Amend subrule **8.5(2)**, definition of “In responsible charge,” as follows:

“In responsible charge” means having direct control of and personal supervision over any professional land surveying work or work involving the practice of professional engineering. One or more persons, jointly or severally, may be in responsible charge. ~~Indicia~~ Indications of being “in responsible charge” ~~charge~~ charge include:

1. Obtaining or setting the project or service parameters or criteria.
2. Dictating the manner and methods by which professional services are performed.
3. Establishing procedures for quality control and authority over professional services in a manner that ensures that the professional licensee is in control of the work and of all individuals performing the work under the licensee’s supervision.
4. Spending sufficient time directly performing the work or directly supervising the work to ensure that the licensee is familiar with all significant details of the work.
5. Maintaining familiarity with the capabilities and methods of the persons performing professional services, and providing adequate training for all persons working under the licensee’s direct supervision.
6. Sustaining readily accessible contact with all persons performing professional services by direct physical proximity, or as appropriate in the licensee’s professional judgment, by frequent communication, in clear and complete verbal and visual form, of information about the work being performed.
7. Specifically pertaining to land surveying, reviewing all field evidence and making all final decisions concerning the placement of survey monuments and surveyed lines.

ITEM 26. Amend subrule 9.1(1) as follows:

9.1(1) Complaints. The board shall, upon receipt of a complaint ~~in writing~~, or may upon its own motion pursuant to other evidence received by the board, review and investigate alleged acts or omissions which reasonably constitute cause under applicable law or administrative rule for licensee discipline. ~~Written complaints~~ Complaints may be submitted to the board office ~~by mail, E-mail, facsimile, or personal delivery~~ via the board’s website by members of the public, including clients, business organizations, nonprofit organizations, governmental bodies, licensees, or other individuals or entities with knowledge of possible violations of laws or rules by licensees.

ITEM 27. Amend rule 193C—9.3(17A,272C,542B,546), introductory paragraph, as follows:

193C—9.3(17A,272C,542B,546) Grounds for discipline. The board has authority pursuant to Iowa Code chapters 542B, 17A and 272C to impose discipline for violations of those chapters and the rules promulgated thereunder and may initiate disciplinary action against a licensee holding an active, inactive or lapsed license on any of the following grounds:

ITEM 28. Rescind subrule 9.3(6) and adopt the following **new** subrule in lieu thereof:

9.3(6) Professional misconduct. Professional misconduct includes, but is not limited to, revocation, suspension, or other disciplinary action taken against a licensee by a licensing authority of this state or another state, territory, or country. “Disciplinary action” includes a voluntary surrender of a license to resolve a pending disciplinary investigation or proceeding. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, discipline by the board based solely on such action shall be vacated. A licensee shall notify the board of such disciplinary action within 30 days of the disciplinary action.

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

ITEM 29. Amend rule 193C—9.6(542B) as follows:

193C—9.6(542B) Publication of decisions. In addition to publication requirements found at 193—subrule 7.30(3), the following notifications shall be issued:

1. Following suspension of a professional land surveyor's license, notification must be ~~mailed~~ issued to the county recorders and county auditors of the county of residence and immediately adjacent counties in Iowa.
2. and 3. No change.

ITEM 30. Amend rule 193C—10.1(542B,272C) as follows:

193C—10.1(542B,272C) Peer review committee (PRC). The board may appoint a peer review ~~committee~~ reviewer, or multiple peer reviewers, for the investigation of a complaint about the acts or omissions of one or more licensees.

10.1(1) ~~PRC membership~~ Peer review. ~~A PRC Peer reviewers shall generally consist of three or more be licensed engineers or licensed land surveyors or both, as determined by the board, who are selected for their knowledge and experience in the type of engineering or land surveying involved in the complaint. The board may appoint a two-member PRC or a single peer review consultant to perform the function of a PRC when, in the board's opinion, appointing a committee with three or more members would be impractical, unnecessary or undesirable given the nature of the expertise required, the need for prompt action or the circumstances of the complaint.~~

An individual shall be ineligible for membership on a PRC as a peer reviewer in accordance with the standard for disqualification found at ~~193-IAC 7.14(1)~~ 193—subrule 7.14(1). If a PRC member peer reviewer is unable to serve after an investigation has begun, the PRC member peer reviewer must notify the board office.

10.1(2) Authority. The PRC's peer reviewer's investigation may include activities such as interviewing the complainant, the respondent, individuals with knowledge of the alleged violation, and individuals with knowledge of the respondent's practice in the community; gathering documents; conducting site visits; and performing independent analyses as deemed necessary. Although the board does not become involved in a complaint investigation, the board may give specific instructions to the PRC peer reviewer regarding the scope of the investigation. In the course of the investigation, PRC members the peer reviewer shall refrain from advising the complainant or respondent on actions that the board might take.

10.1(3) Term of service. The PRC peer reviewer serves at the pleasure of the board. The board may dismiss any ~~or all members of a PRC peer reviewer~~ or add new members peer reviewers at any time.

10.1(4) Compensation. The terms of payment as authorized by the peer review agreement may vary based on the nature and complexity of each assignment ~~and whether the peer reviewer will act as a single peer reviewer or as part of a peer review committee.~~ The peer reviewer shall be additionally entitled to reimbursement of expenses directly related to the peer review process, deposition or hearing preparation, or deposition or hearing testimony, such as mileage, meals, or out-of-pocket charges for securing copies of documents. Expenses will be reimbursed as allowed under the manuals and guidelines published by the Iowa department of administrative services, state accounting enterprise. The PRC peer reviewer shall not hire legal counsel, investigators, secretarial help or any other assistance without written authorization from the board.

ITEM 31. Amend rule 193C—10.2(542B,272C) as follows:

193C—10.2(542B,272C) Reports. Each PRC peer reviewer shall submit a written report to the board within a reasonable period of time 90 days of the peer review assignment, unless an extension is granted by the board.

10.2(1) Components of the report. The report shall include:

- a. A statement of the charge to the PRC peer reviewer;
- b. A description of the actions taken by the PRC peer reviewer in ~~its~~ the peer reviewer's investigation, including but not limited to document review, interviews and site visits;

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

c. A summary of the PRC's peer reviewer's findings, including (1) the PRC's peer reviewer's opinion as to whether a violation has occurred, (2) citation of the Iowa Code section(s) and Iowa Administrative Code rule(s) violated, and (3) the PRC's peer reviewer's opinion of the seriousness of the violation; and

d. A recommendation.

In the case of a land surveyor PRC peer reviewer report, the report must be plat-specific as to the violations.

10.2(2) Recommended action. The PRC peer reviewer report shall recommend one of the following:

- a. Dismissal of the complaint,
- b. Further investigation, or
- c. Disciplinary proceedings.

If the PRC peer reviewer recommends further investigation or disciplinary proceedings, supporting information must be submitted to the board, including citation of the specific Iowa Code section(s) and Iowa Administrative Code rule(s) violated.

10.2(3) Disciplinary recommendations. When recommending disciplinary proceedings, a PRC peer reviewer shall refrain from suggesting a particular form of discipline, but may provide guidance on the severity of the violations that prompted the recommendation and may identify professional areas in which the licensee needs additional education, experience or monitoring in order to safely practice.

ITEM 32. Amend rule 193C—10.3(542B,272C) as follows:

193C—10.3(542B,272C) Confidentiality. The PRC peer reviewer shall not discuss ~~its~~ the peer reviewer's findings and conclusions with any party to the complaint. PRC Peer reviewer findings including the name of the complainant shall be kept confidential at all times. The PRC peer reviewer shall not reveal ~~its~~ the peer reviewer's findings to anyone other than the board (through ~~its~~ the peer reviewer's report to the board) or board staff. PRC Peer reviewer findings shall be used only for the purposes of the board's possible disciplinary action and not for any other court case, lawsuit, or investigation. PRC Peer reviewer reports are not subject to discovery.

ITEM 33. Amend rule 193C—10.4(542B,272C) as follows:

193C—10.4(542B,272C) Testimony. ~~PRC members~~ Peer reviewers may be required to testify in the event of formal disciplinary proceedings.

ITEM 34. Amend rule 193C—11.2(542B), definition of "Retrace," as follows:

"Retrace" means following along a previously established line to logical termini ~~monumented by corners that are found or placed by the surveyor.~~

ITEM 35. Amend rule 193C—11.4(542B) as follows:

193C—11.4(542B) Descriptions. Descriptions defining land boundaries written for conveyance or other purposes shall be complete, providing definite and unequivocal identification of lines or boundaries. The description must contain dimensions sufficient to enable the description to be platted and retraced and shall describe the land surveyed either by government lot or by quarter-quarter section or by quarter section and shall identify the section, township, range and county; and by metes and bounds commencing with ~~some~~ a corner marked monumented and established in the U.S. Public Land Survey System; or if such land is located in a recorded subdivision or recorded addition thereto, then by the number or other description of the lot, block or subdivision thereof which has been previously tied to a corner ~~marked monumented~~ marked monumented and established by the U.S. Public Land Survey System. If the parcel is described by metes and bounds, it may be referenced to known lot or block corners in recorded subdivision or additions.

ITEM 36. Amend subrule 11.5(5) as follows:

11.5(5) The plat shall show that record title boundaries, centerlines, and other boundary lines were retraced to monuments found or placed by the surveyor. ~~The surveyor shall retrace those exterior lines of a section that divide a metes and bounds described parcel of land to determine acreage for assessment and taxation purposes.~~

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

ITEM 37. Amend paragraph **12.2(2)“a”** as follows:

a. There is no certificate for the corner monument on file with the recorder of the county in which the corner is located.

ITEM 38. Amend paragraph **12.2(3)“a”** as follows:

a. The identity of the corner monument, with reference to the U.S. Public Land Survey System, shall be clearly indicated.

ARC 3942C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to mental health and disability services regions and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 25, “Disability Services Management,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 225C.6 and 2018 Iowa Acts, House File 2456.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 225C.6 and 2018 Iowa Acts, House File 2456.

Purpose and Summary

These proposed amendments implement 2018 Iowa Acts, House File 2456, which requires the mental health and disability services regions to initiate new core services, expand the core services the regions currently provide, meet new access standards for these services, and include the service changes in their services, budget planning, and reporting by a specified date. The regions must also collaborate to ensure that core services are available in minimum numbers strategically located throughout the state.

These amendments also establish new and revised service standards for providers of comprehensive crisis services, subacute mental health services, and intensive mental health services.

Finally, these amendments provide for a broader and more accessible statewide array of crisis and intensive mental health services to individuals with serious mental illness and to other individuals experiencing a mental health or substance use crisis.

Fiscal Impact

This rule making has a fiscal impact to the State of Iowa of \$100,000 annually or \$500,000 over five years. The fiscal impact statement containing a detailed discussion of assumptions and how estimates were derived is available from the Department upon request.

Jobs Impact

These amendments are not expected to have a significant impact on private-sector jobs and employment opportunities in Iowa. However, the introduction of new and expanded services may provide a small number of new jobs or opportunities for job change or advancement.

HUMAN SERVICES DEPARTMENT[441](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 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 4, 2018. Comments should be directed to:

Harry Rossander
 Department of Human Services
 Bureau of Policy Coordination
 Hoover State Office Building, Fifth Floor
 1305 East Walnut Street
 Des Moines, Iowa 50319-0114
 Email: policyanalysis@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 **441—Chapter 25**, chapter preamble, as follows:

This chapter provides for definitions of regional core services;₂ access standards; implementation dates; ~~and~~ practice standards;₂ reporting of regional expenditures;₂ development and submission of regional management plans;₂ data collection;₂ applications for funding as they relate to regional service systems for individuals with mental illness, intellectual disabilities, developmental disabilities, or brain injury;₂ and submission of data for Medicaid offset calculations.

ITEM 2. Amend **441—Chapter 25**, Division I title, as follows:

REGIONAL CORE SERVICES

ITEM 3. Amend rule **441—25.1(331)**, definitions of “Assertive community treatment,” “Case manager” and “Home and vehicle modification,” as follows:

“*Assertive community treatment*” or “*ACT*” means a program of comprehensive outpatient services consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration, provided in the community and directed toward the amelioration of symptoms and the rehabilitation of behavioral, functional, and social deficits of individuals with severe and persistent mental disorders illness and individuals with complex ~~symptomatology~~ symptomology

HUMAN SERVICES DEPARTMENT[441](cont'd)

who require multiple mental health and supportive services to live in the community ~~consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.~~

“*Case manager*” means a person who has completed specified and required training to provide case management through the medical assistance program ~~or the Iowa Behavioral Health Care Plan.~~

“*Home and vehicle modification*” means a service that provides physical modifications to the home or vehicle that directly address the medical health or remedial needs of the individual and that are necessary to provide for the health, welfare, and safety of the ~~member~~ individual and to increase or maintain independence.

ITEM 4. Adopt the following new definitions of “Access center,” “ACT full-size team,” “ACT population,” “ACT small-size team,” “Adult,” “Brain injury,” “Care coordination,” “Comprehensive assessment,” “Crisis assessment,” “Crisis intervention plan,” “Crisis screening,” “Crisis stabilization community-based services,” “Crisis stabilization residential services,” “Emergency detention,” “HCBS,” “Homeless,” “Intake assessment,” “Intensive residential service homes,” “Medically stable,” “Mobile response,” “Multi-occurring conditions,” “No reject, no eject,” “Precariously housed,” “Prescreening assessment,” “Region,” “Severe and persistent mental illness,” “Subacute mental health services,” “Substance-related disorder,” “Twenty-four-hour crisis response,” “Twenty-three-hour observation and holding,” and “Warm handoff,” in rule **441—25.1(331)**:

“*Access center*” means the coordinated provision of intake assessment, screening for multi-occurring conditions, care coordination, crisis stabilization residential services, subacute mental health services, and substance abuse treatment for adults with serious mental health conditions or substance use disorders who do not need inpatient psychiatric hospital treatment, but who do need significant amounts of supports and services not available in other home- and community-based settings.

“*ACT full-size team*” means a team with a minimum of ten multidisciplinary staff that serves a maximum of 100 individuals.

“*ACT population*” means 0.06 percent of the adult population of the region.

“*ACT small-size team*” means a team with a minimum of six multidisciplinary staff that serves a maximum of 48 individuals.

“*Adult*” means the same as defined in 441—subrule 78.27(1).

“*Brain injury*” means the same as defined in rule 441—83.81(249A).

“*Care coordination*” means facilitating communication and ensuring provision of services among multiple professionals and service providers, the individual, and family members or other natural supports when designated by the individual, and ensuring the individual has the information necessary to actively participate in service and discharge planning.

“*Comprehensive assessment*” means the same as “crisis assessment” defined in rule 441—24.20(225C) for individuals being referred to crisis stabilization residential services and means the same as “assessment” defined in rule 481—71.2(135G) for individuals being referred to subacute mental health services.

“*Crisis assessment*” means the same as defined in rule 441—24.20(225C).

“*Crisis intervention plan*” means the same as defined in rule 441—24.1(225C).

“*Crisis screening*” means a brief assessment to make a determination of the presenting problem and referral to the appropriate level of care.

“*Crisis stabilization community-based services*” or “*CSCBS*” means the same as defined in rule 441—24.20(225C).

“*Crisis stabilization residential services*” or “*CSRS*” means the same as defined in rule 441—24.20(225C).

“*Emergency detention*” means the same as “immediately detained” as described in Iowa Code section 229.22(1).

“*HCBS*” means home- and community-based services as defined in rule 441—78.27(249A).

“*Homeless*” means the same as “homeless person” defined in rule 441—25.11(331).

HUMAN SERVICES DEPARTMENT[441](cont'd)

“Intake assessment” means the process used with an individual to collect information related to the individual’s history, needs, strengths, and abilities for the purpose of determining the individual’s need for comprehensive assessment, appropriate services or referral.

“Intensive residential service homes” or *“intensive residential services”* means intensive, community-based services provided 24 hours a day, 7 days a week, 365 days a year to individuals with a severe and persistent mental illness or multi-occurring conditions. Providers of intensive residential service homes are enrolled with Medicaid as providers of HCBS habilitation or HCBS intellectual disability waiver supported community living and meet additional criteria specified in subrule 25.6(8).

“Medically stable” means the individual is conscious and comfortable, has vital signs within normal limits as determined by a medical professional, and shows no obvious signs of illness or injury indicating a need for immediate medical attention.

“Mobile response” means the same as defined in rule 441—24.20(225C).

“Multi-occurring conditions” means a diagnosis of a severe and persistent mental illness occurring along with one or more of the following: a physical health condition, a substance-related disorder, an intellectual or developmental disability, or a brain injury.

“No reject, no eject” means that an individual who otherwise meets the eligibility criteria for a service shall not be denied access to that service or discharged from that service based on the severity or complexity of that individual’s mental health and multi-occurring needs.

“Precariously housed” means that a person does not have a permanent household and is living day-to-day in a motel, in a vehicle, with family or friends, or in some other temporary location.

“Prescreening assessment” means a face-to-face, in-person, or telehealth clinical interview to ascertain an individual’s current and previous level of functioning, potential for dangerousness, physical health, and psychiatric and medical condition.

“Region” means a mental health and disability service region that operates as the “‘regional administrator’ or ‘regional administrative entity’” as defined in rule 441—25.11(331).

“Severe and persistent mental illness” or *“SPMI”* means a documented principal mental health disorder diagnosed by a mental health professional that causes symptoms and impairments in basic mental and behavioral processes that produce distress and major functional disability in adult role functioning inclusive of social, personal, family, educational or vocational roles. The individual has a degree of impairment arising from a psychiatric disorder such that: (1) the individual does not have the resources or skills necessary to maintain function in the home or community environment without assistance or support; (2) the individual’s judgment, impulse control, or cognitive perceptual abilities are compromised; (3) the individual exhibits significant impairment in social, interpersonal, or familial functioning; and (4) the individual has a documented mental health diagnosis. For this purpose, a “mental health diagnosis” means a disorder, dysfunction, or dysphoria diagnosed pursuant to the current version of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, excluding neurodevelopmental disorders, substance-related disorders, personality disorders, medication-induced movement disorders and other adverse effects of medication, and other conditions that may be a focus of clinical attention as defined in the current version of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

“Subacute mental health services” means the same as defined in Iowa Code section 225C.6(4)“c.”

“Substance-related disorder” means the same as defined in Iowa Code section 125.2(15).

“Twenty-four-hour crisis response” means the same as defined in rule 441—24.20(225C).

“Twenty-three-hour observation and holding” means the same as defined in rule 441—24.20(225C).

“Warm handoff” means an approach to care transitions in which a health care provider uses face-to-face or telephone contact to directly link individuals being treated to other providers or specialists.

ITEM 5. Rescind subrule 25.2(3) and adopt the following **new** subrule in lieu thereof:

25.2(3) The region shall ensure that the following services are available in the region:

a. Access centers.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- b.* Assertive community treatment.
- c.* Assessment and evaluation.
- d.* Case management.
- e.* Crisis evaluation.
- f.* Crisis stabilization community-based services.
- g.* Crisis stabilization residential services.
- h.* Day habilitation.
- i.* Family support.
- j.* Health homes.
- k.* Home and vehicle modification.
- l.* Home health aide.
- m.* Intensive residential service homes.
- n.* Job development.
- o.* Medication prescribing and management.
- p.* Mental health inpatient treatment.
- q.* Mental health outpatient treatment.
- r.* Mobile response.
- s.* Peer support.
- t.* Personal emergency response system.
- u.* Prevocational services.
- v.* Respite.
- w.* Subacute mental health services.
- x.* Supported employment.
- y.* Supportive community living.
- z.* Twenty-four-hour access to crisis response.
- aa.* Twenty-three-hour crisis observation and holding.

Regions may fund or provide other services in addition to the required core services consistent with requirements set forth in subrules 25.2(4) and 25.2(5).

ITEM 6. Amend subrule 25.2(5), introductory paragraph, as follows:

25.2(5) A regional service system may provide funding for other appropriate services or ~~other~~ support. In considering whether to provide such funding, a region may consider the following criteria:

ITEM 7. Rescind rule 441—25.3(331) and adopt the following **new** rule in lieu thereof:

441—25.3(331) Implementation dates.

25.3(1) Regions shall implement the following core services effective July 1, 2014:

- a.* Assessment and evaluation.
- b.* Case management.
- c.* Crisis evaluation.
- d.* Day habilitation.
- e.* Family support.
- f.* Health homes.
- g.* Home and vehicle modification.
- h.* Home health aide.
- i.* Job development.
- j.* Medication prescribing and management.
- k.* Mental health inpatient therapy.
- l.* Mental health outpatient therapy.
- m.* Peer support.
- n.* Personal emergency response system.
- o.* Prevocational services.
- p.* Respite.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- q. Supported employment.
- r. Supportive community living.
- s. Twenty-four-hour access to crisis response.

25.3(2) Regions shall implement the following intensive mental health core services on or before July 1, 2021, provided that federal matching funds are available under the Iowa health and wellness plan pursuant to Iowa Code chapter 249N:

- a. Access centers.
- b. Assertive community treatment.
- c. Crisis stabilization community-based services.
- d. Crisis stabilization residential services.
- e. Intensive residential service homes.
- f. Mobile response.
- g. Subacute mental health services provided in facility and community-based settings.
- h. Twenty-three-hour crisis observation and holding.

ITEM 8. Rescind rule 441—25.4(331) and adopt the following **new** rule in lieu thereof:

441—25.4(331) Access standards. Regions shall meet the following access standards:

25.4(1) A sufficient provider network which shall include:

- a. A community mental health center or federally qualified health center that provides psychiatric and outpatient mental health services in the region.
- b. A hospital with an inpatient psychiatric unit or state mental health institute located in or within reasonably close proximity that has the capacity to provide inpatient services to the applicant.

25.4(2) Crisis services shall be available 24 hours per day, 7 days per week, 365 days per year for mental health and disability-related emergencies. A region may make arrangements with one or more other regions to meet the required access standards.

a. *Basic crisis response.*

(1) Twenty-four-hour crisis response. An individual shall have immediate access to crisis response services by means of telephone, electronic, or face-to-face communication.

(2) Crisis evaluation. An individual shall have immediate access to a crisis screening and will have a crisis assessment by a licensed mental health professional within 24 hours of referral.

b. *Crisis stabilization community-based services.* An individual shall receive face-to-face contact from the CSCBS provider within 120 minutes from the time of referral.

c. *Crisis stabilization residential services.* An individual shall receive CSRS within 120 minutes of referral. The service shall be located within 100 miles from the residence of the individual.

d. *Mobile response.* An individual in need of mobile response services shall have face-to-face contact with mobile crisis staff within 60 minutes of dispatch.

e. *Twenty-three-hour observation and holding.* An individual shall receive 23-hour observation and holding within 120 minutes of referral. The service shall be located within 100 miles from the residence of the individual.

25.4(3) The region shall provide the following treatment services:

a. *Outpatient.*

(1) Emergency: During an emergency, outpatient services shall be initiated to an individual within 15 minutes of telephone contact.

(2) Urgent: Outpatient services shall be provided to an individual within one hour of presentation or 24 hours of telephone contact.

(3) Routine: Outpatient services shall be provided to an individual within four weeks of request for appointment.

(4) Distance: Outpatient services shall be offered within 30 miles for an individual residing in an urban community and 45 miles for an individual residing in a rural community.

b. *Inpatient.*

(1) An individual in need of emergency inpatient services shall receive treatment within 24 hours.

(2) Inpatient services shall be available within reasonably close proximity to the region.

HUMAN SERVICES DEPARTMENT[441](cont'd)

c. Assessment and evaluation. An individual who has received inpatient services shall be assessed and evaluated within four weeks.

25.4(4) Subacute facility-based mental health services. An individual shall receive subacute facility-based mental health services within 24 hours of referral. The service shall be located within 100 miles of the residence of the individual.

25.4(5) Support for community living. The first appointment shall occur within four weeks of the individual's request of support for community living.

25.4(6) Support for employment. The initial referral shall take place within 60 days of the individual's request of support for employment.

25.4(7) Recovery services. An individual receiving recovery services shall not have to travel more than 30 miles if residing in an urban area or 45 miles if residing in a rural area to receive services.

25.4(8) Service coordination.

a. An individual receiving service coordination shall not have to travel more than 30 miles if residing in an urban area or 45 miles if residing in a rural area to receive services.

b. An individual shall receive service coordination within ten days of the initial request for such service or being discharged from an inpatient facility.

25.4(9) The region shall make the following intensive mental health services available. A region may make arrangements with one or more other regions to meet the required access standards.

a. Assertive community treatment.

(1) A minimum of 22 ACT teams shall be operational statewide.

(2) A sufficient number of ACT teams shall be available to serve the identified ACT population of the region. The region may utilize a combination of ACT full-size teams and ACT small-size teams depending on the ACT population in a geographic area. The region may identify multiple geographic areas within the region for ACT team coverage. Regions may work with one or more other regions to identify geographic areas for ACT team coverage.

b. Access centers.

(1) A minimum of six access centers shall be operational statewide.

(2) An access center shall be located within 100 miles of the residence of the individual or be available within 90 minutes from the time of the determination that the individual needs access center services.

c. Intensive residential services.

(1) A minimum of 120 intensive residential service beds shall be available statewide.

(2) An individual receiving intensive residential services shall have the service available within two hours of the individual's residence.

(3) An individual shall be admitted to intensive residential services within four weeks from referral.

25.4(10) The following limitations apply to home and vehicle modification for an individual receiving mental health and disability services:

a. A lifetime limit equal to that established for the home- and community-based services waiver for individuals with intellectual disabilities in the medical assistance program.

b. A provider reimbursement payment will be no lower than that provided through the home- and community-based services waiver for individuals with intellectual disabilities in the medical assistance program.

ITEM 9. Rescind rule 441—25.5(331) and adopt the following **new** rule in lieu thereof:

441—25.5(331) Practices. A region shall ensure that access is available to providers of core services that demonstrate the following competencies:

25.5(1) Regions shall have service providers that are trained to provide effective services to individuals with multi-occurring conditions. Training for serving individuals with multi-occurring conditions provided by the region shall be training identified by the Substance Abuse and Mental Health Services Administration, the Dartmouth Psychiatric Research Center or other generally recognized professional organization specified in the regional service system management plan.

HUMAN SERVICES DEPARTMENT[441](cont'd)

25.5(2) Regions shall have service providers that are trained to provide effective trauma-informed care. Trauma-informed care training provided by the region shall be recognized by the National Center for Trauma-Informed Care or other generally recognized professional organization specified in the regional service system management plan.

25.5(3) Regions must have evidence-based practices that the region has independently verified as meeting established fidelity to evidence-based service models including, but not limited to, assertive community treatment or strengths-based case management; integrated treatment of co-occurring substance abuse and mental health disorders; supported employment; family psychoeducation; illness management and recovery; and permanent supportive housing.

ITEM 10. Adopt the following **new** rule 441—25.6(331):

441—25.6(331) Intensive mental health services. The purpose of intensive mental health services is to provide a continuum of services and supports to individuals with complex mental health and multi-occurring conditions who need a high level of intensive and specialized support to attain stability in health, housing, and employment and to work toward recovery.

25.6(1) Access centers. The purpose of an access center is to serve individuals with a serious mental health condition or substance use disorder who are otherwise medically stable, who are not in need of an inpatient psychiatric level of care, and who do not have alternative, safe, effective services immediately available.

a. Regional coordination. Each region shall designate at least one access center provider and ensure that access center services are available to the residents of the region consistent with subrule 25.4(9).

(1) Regions shall work collaboratively to develop a minimum of six access centers strategically located throughout the state.

(2) Access centers may be shared by two or more regions.

(3) Each region shall establish methods to provide for reimbursement of a region when a non-Medicaid-eligible resident of another region utilizes an access center or other non-Medicaid-covered services located in that region.

b. Access center standards. A designated access center shall meet all of the following criteria:

(1) An access center shall have no residential facility-based setting with more than 16 beds.

(2) An access center provider shall be accredited to provide crisis stabilization residential services pursuant to 441—Chapter 24.

(3) An access center provider shall be licensed to provide subacute mental health services as described in rule 441—77.56(249A).

(4) An access center provider shall be licensed as a substance abuse treatment program pursuant to Iowa Code chapter 125 or have a cooperative agreement with and immediate access to licensed substance abuse treatment services or medical care that incorporates withdrawal management.

(5) An access center shall provide services to eligible individuals on a no reject, no eject basis.

(6) An access center shall accept and serve eligible individuals who are court-ordered to participate in mental health or substance use disorder treatment.

c. Eligibility for access center services. To be eligible to receive access center services, an individual shall meet all of the following criteria:

(1) The individual is an adult in need of services or treatment related to a serious mental health condition or a substance use disorder.

(2) The individual is medically stable.

(3) The individual has been determined not to need an inpatient psychiatric hospital level of care.

(4) The individual does not have immediate access to alternative, safe, and effective services.

d. Access center services. An access center shall provide or arrange for the provision of all of the following:

(1) Immediate intake assessment and screening for multi-occurring conditions, including but not limited to suicide risk, brain injury, and drug and alcohol use. A crisis evaluation may serve as an intake assessment.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- (2) Comprehensive person-centered mental health assessments by appropriately licensed or credentialed professionals, as indicated by the intake assessment.
- (3) Comprehensive person-centered substance use disorder assessments by appropriately licensed or credentialed professionals, as indicated by the intake assessment.
- (4) Peer support services, as indicated by a comprehensive assessment.
- (5) Mental health treatment, as indicated by a comprehensive assessment.
- (6) Substance use treatment, as indicated by a comprehensive assessment.
- (7) Medically necessary physical health services.
- (8) Care coordination as defined in rule 441—25.1(331).
- (9) Service navigation and linkage to needed services including housing, employment, shelter services, and brain injury services, with warm handoffs to other service providers.

25.6(2) Assertive community treatment (ACT) services. The purpose of assertive community treatment is to serve individuals with the most severe and persistent mental illness conditions and functional impairments. ACT services provide a set of comprehensive, integrated, intensive outpatient services delivered by a multidisciplinary team under the supervision of a psychiatrist, an advanced registered nurse practitioner, or a physician assistant under the supervision of a psychiatrist. An ACT program shall designate an individual to be responsible for administration of the program and with the authority to sign documents and receive payments on behalf of the program.

a. Regional coordination. Each region shall designate at least one ACT provider and ensure that ACT services are available to the residents of the region consistent with subrule 25.4(9). Regions may work collaboratively with other regions when an ACT team is serving more than one region.

(1) Each region shall determine if an ACT full-size team, ACT small-size team, or a combination of ACT full-size and ACT small-size teams is needed to serve the ACT population in that region.

(2) Each region shall verify that all ACT programs operating in the region meet fidelity criteria consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration (SAMHSA) as determined by a review of each team, which includes peer review. ACT programs shall have an initial fidelity review and be reviewed no less than biennially.

b. ACT team composition. ACT teams shall include the following:

(1) A psychiatrist, an advanced registered nurse practitioner, or a physician assistant under the supervision of a board-certified psychiatrist.

- (2) A team leader.
- (3) A registered nurse.
- (4) A mental health professional.
- (5) A substance abuse treatment provider.
- (6) A community support specialist.
- (7) A peer support specialist.
- (8) An employment specialist.

c. Staff qualifications. ACT team members shall meet the following qualifications:

(1) Psychiatrist. A psychiatrist on the team shall be a person who meets all of the following criteria:

1. Is a doctor of medicine (M.D.) or a doctor of osteopathy (D.O.).
2. Is licensed in Iowa pursuant to 653—Chapter 9.
3. Is certified as a psychiatrist by the American Board of Medical Specialties' Board of Psychiatry and Neurology or by the American Osteopathic Board of Neurology and Psychiatry.

4. Has experience working with persons with severe and persistent mental illness.
5. Provides a minimum of 16 hours per week of psychiatrist time for every 50 ACT clients.

(2) Advanced registered nurse practitioner. An advanced registered nurse practitioner on the team shall be a person who meets all of the following criteria:

1. Is licensed pursuant to 655—Chapter 7.
2. Has a mental health certification.
3. Has experience working with persons with severe and persistent mental illness.
4. Provides a minimum of 16 hours per week of advanced registered nurse practitioner time for every 50 ACT clients.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(3) Physician assistant. A physician assistant on the team shall be a person who meets all of the following criteria:

1. Is licensed pursuant to 645—Chapter 326.
2. Has experience working with persons with severe and persistent mental illness.
3. Is practicing under the supervision of a board-certified psychiatrist.
4. Provides a minimum of 16 hours per week of physician assistant time for every 50 ACT clients.

(4) Team leader. A team leader shall be a person on the team who meets all of the following criteria:

1. Has a master's degree in nursing, social work, psychiatric rehabilitation, or psychology.
2. Is an actively practicing clinician on the team.
3. Is a full-time staff member whose responsibilities are limited to the ACT team and who serves as the clinical and administrative supervisor of the team.

(5) Registered nurse. A registered nurse on the team shall be a person who meets all of the following criteria:

1. Is licensed as a registered nurse pursuant to 655—Chapter 3.
2. Has experience working with persons with severe and persistent mental illness.

(6) Mental health professional. A mental health professional on the team shall be a person who meets all of the following criteria:

1. Is a mental health counselor or marital and family therapist licensed pursuant to 645—Chapter 31 or is a social worker licensed as a master or independent social worker pursuant to 645—Chapter 280.
2. Has experience working with persons with severe and persistent mental illness.

(7) Substance abuse treatment professional. A substance abuse treatment professional on the team shall be a person who meets all of the following criteria:

1. Is an appropriately credentialed counselor pursuant to 641—subparagraph 155.21(8) "b"(1).
2. Has at least three years of experience working with persons for substance abuse.

(8) Community support specialist. A community support specialist on the team shall be a person who meets all of the following criteria:

1. Has a bachelor's degree with at least 30 semester hours or equivalent quarter hours in a human services field, including but not limited to sociology, social work, counseling, psychology, or human services.
2. Has experience working with persons with severe and persistent mental illness.

(9) Peer support specialist. A peer support specialist on the team shall be a person who meets all of the following criteria:

1. Has been diagnosed with a severe and persistent mental illness.
2. Has met all requirements of the Appalachian Consulting Group Peer Support Training Model.

(10) Psychologist. A psychologist on the team shall be a person who meets all of the following criteria:

1. Is licensed pursuant to 645—Chapter 240.
2. Has experience working with persons with a severe and persistent mental illness.

d. ACT provider standards. Organizations seeking regional designation as an ACT provider shall meet the following criteria at initial application and annually thereafter. A designated ACT provider shall:

(1) Develop and maintain written ACT-specific admission policies and procedures, including but not limited to a gradual rate of admission and program eligibility requirements.

(2) Develop and maintain written ACT-specific discharge policies and procedures. Discharge criteria shall include but are not limited to the following:

1. An individual reaches individually established goals for discharge, and the individual and program staff mutually agree to the termination of services; or

2. An individual requests discharge, demonstrates the ability to function in all major role areas without ongoing assistance from the program and without significant relapse when services are withdrawn, and the program staff agree to the termination of services; or

3. An individual moves outside the geographic area of the team's responsibility. In such cases, the team shall arrange for transfer of responsibility for mental health services to an ACT program or another

HUMAN SERVICES DEPARTMENT[441](cont'd)

provider wherever the individual is relocating, and the team shall maintain contact with the individual until the service transfer is implemented; or

4. An individual declines or refuses services and requests discharge despite the team's best efforts to develop an acceptable treatment plan with the individual.

(3) Documentation of discharges. Documentation shall include:

1. The reason(s) for discharge as stated by both the individual and the team.

2. A summary of the individual's biopsychosocial status at the time of discharge.

3. A written final evaluation summary of the individual's progress toward the goals in the treatment plan.

4. A plan developed in conjunction with the individual for follow-up treatment after discharge.

5. The signature of each of the following:

- The individual, or documentation of why the individual's signature was not obtained.

- The service coordinator.

- The team leader.

- The psychiatrist, advanced registered nurse practitioner, or physician assistant under the supervision of a board-certified psychiatrist.

e. *ACT team standards.* All designated ACT teams shall:

(1) Participate in all of the individual's mental health services.

(2) Provide 24-hour services for the psychiatric needs of the individual.

(3) Develop a specific treatment plan based on the assessment of needs and including goals and actions to address the individual's medical, social, educational, and other needs.

(4) Make referrals to services and related activities to assist the individual with the individual's assessed needs.

(5) Monitor and perform follow-up activities necessary to ensure that the treatment plan is carried out and that the individual has access to necessary services. Activities may include monitoring contacts with providers, family members, natural supports, and others.

(6) Hold team meetings at least four times a week to facilitate ACT services and briefly review the status of the individual with other members of the team.

(7) Have the capacity to provide multiple contacts a week with individuals experiencing severe symptoms, trying a new medication, experiencing a health problem or serious life event, trying to go back to school or starting a new job, making changes in a living situation or employment, or having significant ongoing problems in daily living. All members of the team share responsibility for addressing the needs of all individuals. The team shall provide an average of three contacts per week for all individuals.

(8) Have the capacity to rapidly increase service intensity to an individual when the individual's status requires it or the individual requests it.

(9) Provide treatment, rehabilitation, and support activities 24 hours a day, 7 days a week, 365 days a year, including nights, weekends, and holidays. If there are insufficient numbers of staff to operate an after-hours on-call system, staff shall provide crisis response during regular work hours and arrange coverage for all other hours through a reliable crisis response service.

(10) Provide no more than 20 percent of service contacts in office-based settings.

f. *Staff-to-client ratio.* The ACT team staff-to-client ratios do not include the psychiatrist, advanced nurse practitioner, or physician assistant practicing under the supervision of a psychiatrist.

(1) ACT teams that serve up to 48 individuals shall maintain a ratio of at least one full-time or full-time equivalent staff person to every eight individuals served.

(2) ACT teams that serve more than 48 individuals shall maintain a ratio of at least one full-time or full-time equivalent staff person to every ten individuals served.

g. *Eligibility criteria for ACT services.* To be eligible to receive ACT services, the individual shall meet all of the following criteria:

(1) Is at least 17 years of age.

(2) Has a severe and persistent mental illness or complex mental health symptomology. Individuals with a primary diagnosis of substance-related disorder, developmental disability, or organic disorder are not eligible for ACT services.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(3) Is in need of a consistent team of professionals and multiple mental health and support services to live independently in the community and reduce hospitalizations, as evidenced by:

1. A pattern of repeated treatment failures during the previous 12 months, including at least two psychiatric hospitalizations or psychiatric care delivered at least twice in an emergency department, at an access center, or by a mobile crisis team; or

2. The need for multiple or combined mental health and basic living supports to prevent the need for a more intrusive level of care.

(4) Presents a reasonable likelihood that ACT services will lead to specific, observable improvements in the individual's functioning and assist the individual in achieving or maintaining independent community living. Specifically, the individual:

1. Is medically stable;

2. Does not require a level of care that includes more intensive medical monitoring;

3. Presents a low risk to self, others, or property, with treatment and support; and

4. Lives independently in the community or demonstrates a capacity to live independently and move from a dependent residential setting to independent living.

h. ACT services. ACT teams shall provide the following services:

(1) Initial assessment and treatment planning.

1. An assessment of the individual shall be completed within 30 days of admission that includes psychiatric history, medical history, work and educational history, substance use, employment, problems with activities of daily living, social interests, and family relationships.

2. An individualized written treatment plan shall be developed based on the assessment. The treatment plan shall identify the necessary psychiatric rehabilitation treatment and support services, including all of the following:

- Treatment objectives and outcomes.
- The expected frequency and duration of each service.
- The location where the services will be provided.
- A crisis plan.
- The schedule for updates of the treatment plan.

(2) Evaluation and medication management.

1. The evaluation portion of ACT services consists of a comprehensive mental health evaluation and assessment of the individual by a psychiatrist, advanced registered nurse practitioner, or physician assistant.

2. Medication management consists of the prescription and management of medication by a psychiatrist, advanced registered nurse practitioner, or physician assistant in response to the individual's complaints and symptoms. A psychiatric registered nurse assists in this management by making contact with the individual regarding medications and their effect on the individual's complaints and symptoms.

(3) Integrated therapy and counseling for mental health and substance abuse. Integrated therapy and counseling consists of direct counseling for treatment of mental health and substance abuse symptoms by a psychiatrist, licensed mental health professional, advanced registered nurse practitioner, physician assistant, or substance abuse specialist. Individual counseling may be provided by other team members under the supervision of a psychiatrist or licensed mental health practitioner.

(4) Skill teaching. Skill teaching consists of side-by-side demonstration and observation of daily living activities by any team member.

(5) Community support. Community support may be provided by any team member and consists of the following activities focused on recovery and rehabilitation:

1. Personal and home skills training to assist the individual to develop and maintain skills for self-direction and coping with the living situation.

2. Community skills training to assist the individual in maintaining a positive level of participation in the community through development of socialization skills and personal coping skills.

(6) Medication monitoring. Medication monitoring services shall be provided by a psychiatric nurse and other team members under the supervision of a psychiatrist or psychiatric nurse and consists of:

HUMAN SERVICES DEPARTMENT[441](cont'd)

1. Monitoring the individual's day-to-day functioning, medication compliance, and access to medications; and

2. Ensuring that the individual keeps appointments.

(7) Case management for treatment and service plan coordination. Case management consists of the development of an individualized treatment and service plan, including personalized goals and outcomes, to address the individual's medical symptoms and remedial functional impairments. Case management includes:

1. Assessments, referrals, follow-up, and monitoring.

2. Assisting the individual in gaining access to necessary medical, social, educational, and other services.

3. Assessing the individual to determine service needs by collecting relevant historical information through records and other information from relevant professionals and natural supports.

(8) Crisis response. Crisis response consists of direct assessment and treatment of the individual's urgent or crisis symptoms in the community by any team member, as appropriate.

(9) Work-related services. Work-related services may be provided by any team member. Services consist of assisting the individual in managing mental health symptoms as they relate to job performance and may include:

1. Collaborating with the individual to look for job situations of the individual's choice and creating strategies to manage situations that cause symptoms to increase.

2. Assisting the individual to develop or enhance skills to obtain a work placement, such as individual work-related behavioral management.

3. Providing supports to maintain employment, such as crisis intervention related to employment.

4. Teaching communication, problem-solving, and safety skills.

5. Teaching personal skills, such as time management and appropriate grooming for employment.

(10) Peer support services. Peer support services are provided by a peer support specialist and include, but are not limited to, education and information, individual advocacy, and crisis response.

(11) Support services. All team members are responsible for providing support services. Services consist of assisting the individual in obtaining the basic necessities of daily life, including but not limited to:

1. Medical and dental services.

2. Safe, clean, and affordable housing.

3. Financial support.

4. Benefits counseling.

5. Social services.

6. Transportation.

7. Legal advocacy and representation.

(12) Education, support, and consultation to family members and other major supports of individuals. All team members are responsible for providing education, support, and consultation to family members and other major supports of individuals with the agreement or consent of the individual. Services include but are not limited to:

1. Individualized psychoeducation about the individual's illness and the role of the family and other significant people in the therapeutic process.

2. Intervention to restore contact, resolve conflicts, and maintain relationships with family or other significant people or both.

3. Ongoing communication and collaboration, face-to-face and by telephone, between the ACT team and the family.

4. Introduction and referral to family self-help programs and advocacy organizations that promote recovery.

5. Assistance to obtain necessary services for individuals with children, including but not limited to:

- Individual supportive counseling.

- Parenting training.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- Service coordination.
- Services to help the individual throughout pregnancy and the birth of a child.
- Services to help the individual fulfill parenting responsibilities and coordinate services for the child or children.
- Services to help the individual restore relationships with children who are not in the individual's custody.

25.6(3) *Mobile response.* The purpose of mobile response is to provide short-term individualized crisis stabilization, following a crisis screening or assessment, that is designed to restore the individual to a prior functional level. Mobile response services shall be provided as described in rule 441—24.36(225C).

25.6(4) *23-hour observation and holding.* The purpose of 23-hour observation and holding is to provide up to 23 hours of care in a secure and protected, medically staffed, psychiatrically supervised treatment environment. Twenty-three-hour observation and holding shall be provided as described in rule 441—24.37(225C).

25.6(5) *Crisis stabilization community-based services.* The purpose of crisis stabilization community-based services is to provide short-term services designed to de-escalate a crisis situation and stabilize an individual following a mental health crisis in the setting where the individual lives, works, or recreates. Crisis stabilization community-based services shall be provided as described in rule 441—24.38(225C).

25.6(6) *Crisis stabilization residential services.* The purpose of crisis stabilization residential services is to provide a short-term alternative living arrangement in a setting of no more than 16 beds that is designed to de-escalate a crisis situation and stabilize an individual following a mental health crisis. Crisis stabilization residential services shall be provided as described in rule 441—24.39(225C).

25.6(7) *Subacute mental health services.* The purpose of subacute mental health services is to provide a comprehensive set of wraparound services to individuals who have had or are at imminent risk of having acute or crisis mental health symptoms.

a. Regional coordination. Each region shall designate at least one subacute mental health service provider and ensure that subacute mental health services are available to the residents of the region consistent with subrule 25.4(4).

b. Subacute mental health services standards.

(1) Subacute mental health services in a facility-based setting shall be provided as described in Iowa Code chapter 135G and 481—Chapter 71.

(2) Subacute mental health services in a community-based setting shall be delivered by designated providers of assertive community treatment (ACT) services and shall meet all the requirements of subrule 25.6(2).

25.6(8) *Intensive residential services.* The purpose of intensive residential services is to serve individuals with the most intensive severe and persistent mental illness conditions who have functional impairments and may also have multi-occurring conditions. Intensive residential services provide intensive 24-hour supervision, behavioral health services, and other supportive services in a community-based residential setting.

a. Regional coordination. Each region shall designate at least one intensive residential services provider and ensure that intensive residential services are available to the residents of the region consistent with subrule 25.4(9).

(1) Regions shall work collaboratively to develop intensive residential services strategically located throughout the state with the capacity to serve a minimum of 120 individuals.

(2) Intensive residential services may be shared by two or more regions.

(3) Each region shall establish methods to provide for reimbursement of a region when the non-Medicaid-eligible resident of another region utilizes intensive residential services or other non-Medicaid-covered services located in that region.

b. Intensive residential services standards. An organization that seeks regional designation as an intensive residential service provider shall meet the following criteria at initial application and annually thereafter. A designated intensive residential service provider shall:

HUMAN SERVICES DEPARTMENT[441](cont'd)

- (1) Be enrolled as an HCBS 1915(i) habilitation provider or an HCBS 1915(c) intellectual disability waiver supported community living provider in good standing with the Iowa Medicaid enterprise and all Iowa Medicaid managed care organizations.
 - (2) Provide staffing 24 hours a day, 7 days a week, 365 days a year.
 - (3) Maintain a minimum staffing ratio of one staff to every two and one-half residents. Staffing ratios shall be responsive to the needs of the individuals served.
 - (4) Ensure that all staff members have the following minimum qualifications:
 1. One year of experience working with individuals with a mental illness or multi-occurring conditions.
 2. A high school diploma or equivalent.
 - (5) Ensure that within the first year of employment, staff members complete 48 hours of training in mental health and multi-occurring conditions. During each consecutive year of employment, staff members shall complete 24 hours of training in mental health and multi-occurring conditions. Staff training shall include, but is not limited to the following:
 1. Applied behavioral analysis.
 2. Autism spectrum disorders, diagnoses, symptomology and treatment.
 3. Brain injury diagnoses, symptomology and treatment.
 4. Crisis management and de-escalation and mental health diagnoses, symptomology and treatment.
 5. Motivational interviewing.
 6. Psychiatric medications.
 7. Substance-related disorders and treatment.
 8. Other diagnoses or conditions present in the population served.
 - (6) Provide coordination with the individual's clinical mental health and physical health treatment.
 - (7) Provide clinical oversight by a mental health professional. The mental health professional shall review and consult on service plans, behavior intervention plans, crisis intervention and emergency plans, and all behavioral health services provided to individuals.
 - (8) Have a written cooperative agreement with an outpatient mental health provider and ensure that individuals have timely access to outpatient mental health services, including but not limited to ACT.
 - (9) Be licensed as a substance abuse treatment program pursuant to Iowa Code chapter 125 or have a written cooperative agreement with and timely access to licensed substance abuse treatment services for those individuals with a demonstrated need.
 - (10) Accept and serve eligible individuals who are court-ordered to intensive residential services.
 - (11) Provide services to eligible individuals on a no reject, no eject basis.
 - (12) If funded through HCBS and not licensed as a residential care facility, serve no more than five individuals at a site.
 - (13) Be located in a neighborhood setting to maximize community integration and natural supports.
 - (14) Demonstrate specialization in serving individuals with an SPMI or multi-occurring conditions and serve individuals with similar conditions in the same site.
- c. Eligibility criteria for admission to intensive residential services.* To be eligible to receive intensive residential services, an individual shall meet all of the following criteria:
- (1) The individual is an adult with a diagnosis of a severe and persistent mental illness or multi-occurring conditions.
 - (2) The individual is approved by the Iowa Medicaid enterprise or Medicaid managed care organization, as appropriate, for the highest rate of home-based habilitation or the highest rate of home- and community-based services intellectual disability waiver supported community living service. Reimbursement rates for intensive residential services shall be equal to or greater than the fee schedule currently in place for those services. Regional reimbursement rates for non-Medicaid individuals receiving intensive residential services shall be negotiated by the region and the provider and shall be no less than the Medicaid floor rate.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(3) The individual has had a standardized functional assessment and screening for multi-occurring conditions completed 30 days or less prior to application for intensive residential services, and the functional assessment and screening demonstrates that the individual:

1. Has a diagnosis that meets the criteria of severe and persistent mental illness as defined in rule 441—25.1(331);
2. Has three or more areas of significant impairment in activities of daily living or instrumental activities of daily living;
3. Is in need of 24-hour supervised and monitored treatment to maintain or improve functioning and avoid relapse that would require a higher level of treatment;
4. Has exhibited a lack of progress or regression after an adequate trial of active treatment at a less intensive level of care;
5. Is at risk of significant functional deterioration if intensive residential services are not received; and
6. Meets one or more of the following:
 - Has a record of three or more psychiatric hospitalizations in the 12 months preceding application for intensive residential services.
 - Has a record of more than 30 medically unnecessary psychiatric hospital days in the 12 months preceding application for intensive residential services.
 - Has a record of more than 90 psychiatric hospital days in the 12 months preceding application for intensive residential services.
 - Has a record of three or more emergency room visits related to a psychiatric diagnosis in the 12 months preceding application for intensive residential services.
 - Is residing in a state resource center and has an SPMI.
 - Is being served out of state due to the unavailability of medically necessary services in Iowa.
 - Has an SPMI and is scheduled for release from a correctional facility or a county jail.
 - Is homeless or precariously housed.

ITEM 11. Adopt the following **new** rule 441—25.7(331):

441—25.7(331) Non-core services. When a mental health and disability services region chooses to make the following non-core services available, the region shall ensure that such services meet the requirements of this rule.

25.7(1) Prescreening assessments. Prescreening assessments provided by the region or an entity contracting with the region shall meet the following requirements:

a. The prescreening assessment shall be provided in an emergency room or other crisis assessment setting within four hours of an emergency detention of an individual believed to be mentally ill to determine if inpatient psychiatric hospitalization is necessary.

b. The prescreening assessment shall be performed by a licensed physician or mental health professional who shall also provide ongoing consultations while the individual remains in the emergency room or other crisis assessment setting. The services provided by the consulting professional are intended to supplement, but do not replace, the services of the emergency room or other crisis setting staff.

c. The licensed physician or mental health professional shall submit appropriate documentation and reports to the emergency room or other crisis setting and the court as necessary.

d. The region or entity contracting with the region shall ensure the coordination of appropriate levels of care. Coordination may include but is not limited to:

- (1) Securing an inpatient psychiatric bed when inpatient psychiatric hospitalization is needed.
- (2) Utilizing community-based resources and services such as 23-hour observation and holding, crisis stabilization community-based or residential services, subacute facility-based mental health services or detoxification centers.
- (3) Facilitating outpatient treatment appointments when inpatient psychiatric hospitalization is not needed.

HUMAN SERVICES DEPARTMENT[441](cont'd)

25.7(2) Transportation. A service provider that is under contract with a region and transports individuals pursuant to an Iowa Code chapter 229 court order shall meet the following requirements:

a. The transport vehicle shall be secure such that the individual being transported cannot open doors or windows of the vehicle while it is moving.

b. Transportation staff shall complete a minimum of eight hours of training in mental health issues and crisis intervention in the first month of employment. After the initial training, each staff member shall complete a minimum of two hours of training annually.

ITEM 12. Amend **441—Chapter 25**, Division I, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 331 and ~~2012 Iowa Acts, chapter 1120, section 15~~ 2018 Iowa Acts, House File 2456.

ITEM 13. Amend subrule 25.15(5), introductory paragraph, as follows:

25.15(5) Eligibility for brain injury services. An individual must comply with all of the following requirements to be eligible for brain injury services under the regional service system, if such services were provided to the same class of individuals by a county in the region prior to regional formation ~~and if funds are available to continue such services without limiting or reducing core services.~~

ITEM 14. Amend subrule 25.18(2) as follows:

25.18(2) The annual service and budget plan shall include but not be limited to:

a. and *b.* No change.

c. Crisis planning. ~~The plan for ensuring effective~~ A list of accredited crisis services available in the region for crisis prevention, response and resolution, including contact information for the agencies responsible, shall be included.

d. Intensive mental health services. Identification of the services designated by the region according to rule 441—25.6(331), including the provider name, contact information, and location of each of the following:

(1) Access center(s).

(2) ACT services.

(3) Intensive residential services.

(4) Subacute mental health services.

~~*e.*~~ *e.* Scope of services. A description of the scope of services to be provided, a projection of need for the service, and the funding necessary to meet the need shall be included.

(1) and (2) No change.

~~*f.*~~ *f.* Budget and financing provisions for the next year. The provisions shall address how county, regional, state and other funding sources will be used to meet the service needs within the region.

~~*g.*~~ *g.* Financial forecasting measures. The plan shall describe the financial forecasting measures used in the identification of service need and funding necessary for services.

~~*h.*~~ *h.* The provider reimbursement provisions. The plan shall describe the types of reimbursement methods that will be used, including fee for service, compensating providers for a “system of care” approach, and use of nontraditional providers. A region also shall provide funding approaches that identify and incorporate all services and sources of funding used by the individuals receiving services, including the medical assistance program.

ITEM 15. Amend rule 441—25.19(331) as follows:

441—25.19(331) Annual service and budget plan approval. The annual service and budget plan shall be submitted each year by April 1, 2014, ~~as a part of the region’s management plan for the fiscal year beginning July 1, 2014.~~ The director shall review all regional annual service and budget plans submitted by the dates specified. If the director finds the regional annual service and budget plan in compliance with these rules and state and federal laws, the director may approve the plan. A plan approved by the director for ~~the~~ a fiscal year beginning July 1, 2014, shall remain in effect until June 30, 2015, subject to amendment.

25.19(1) No change.

HUMAN SERVICES DEPARTMENT[441](cont'd)

25.19(2) Notification. Except as specified in subrule 25.19(3), the director shall notify the region in writing of the decision on the plan by June 1, ~~2014~~ of each year. The decision shall specify that either:

a. and *b.* No change.

25.19(3) Review of late submittals. The director may review plans not submitted by April 1, ~~2014~~, after all plans submitted by that date have been reviewed. The director will proceed with the late submittals in a timely manner.

25.19(4) and 25.19(5) No change.

ITEM 16. Amend rule 441—25.20(331) as follows:

441—25.20(331) Annual report. The annual report shall describe the services provided, the cost of those services, the number of individuals served, and the outcomes achieved for the previous fiscal year. The annual report is due on December 1 following a completed fiscal year of implementing the annual service and budget plan. The initial report is due on December 1, 2015. The annual report shall include but not be limited to:

1. Services actually provided.
2. Actual numbers of individuals served.
3. Documentation that each regionally designated access center has met the service standards in subrule 25.6(1).
4. Documentation that each regionally designated ACT team has been evaluated, including a peer review as required by subrule 25.6(2), and has met program fidelity at the time the ACT team is initiated and no less than every two years thereafter.
5. Documentation that each regionally designated subacute service has met the service standards in subrule 25.6(7).
6. Documentation that each regionally designated intensive residential service home or intensive residential service has met the service standards in subrule 25.6(8).

~~3.~~ 7. Moneys expended.

~~4.~~ 8. Outcomes achieved.

ITEM 17. Amend **441—Chapter 25**, Division VIII title, as follows:

~~CRITERIA FOR EXEMPTING COUNTIES FROM JOINING INTO REGIONS TO ADMINISTER
MENTAL HEALTH AND DISABILITY SERVICES~~

ITEM 18. Rescind and reserve rule **441—25.91(331)**.

ITEM 19. Rescind **441—Chapter 25**, Division XI.

ARC 3955C

LABOR SERVICES DIVISION[875]

Notice of Intended Action

Proposing rule making related to beryllium standards and providing an opportunity for public comment

The Labor Commissioner hereby proposes to amend Chapter 10, “General Industry Safety and Health Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 88.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 88.

LABOR SERVICES DIVISION[875](cont'd)

Purpose and Summary

The Labor Commissioner is required by state law to adopt by reference changes to federal occupational safety and health regulations. This proposed amendment will adopt by reference the most recent in a series of changes to the occupational health standards concerning exposure to beryllium. The changes adopted by the federal Occupational Safety and Health Administration amend numerous definitions and clarify that certain methods of employee protection are not needed where only trace amounts of beryllium are present.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. It is anticipated that compliance costs will be reduced for aluminum production facilities and coal-fired utilities as a result of the changes.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commissioner for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 5.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commissioner no later than 4:30 p.m. on September 6, 2018. Comments should be directed to:

Kathleen Uehling
Division of Labor Services
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Email: kathleen.uehling@iwd.iowa.gov

Public Hearing

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

September 6, 2018	150 Des Moines Street
10 a.m.	Des Moines, Iowa
	(If requested)

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 telephone 515.725.5615 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

LABOR SERVICES DIVISION[875](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 action is proposed:

Amend rule **875—10.20(88)** by inserting the following at the end thereof:
83 Fed. Reg. 19948 (May 7, 2018)

ARC 3943C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to licensure of chiropractic physicians and providing an opportunity for public comment

The Board of Chiropractic hereby proposes to amend Chapter 41, “Licensure of Chiropractic Physicians,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.76, 151.11 and 272C.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 147, 151 and 272C.

Purpose and Summary

The proposed amendment provides clarification that if an applicant has held an active license during three of the past five years, the applicant can forgo the requirement of taking the Special Purposes Examination for Chiropractic (SPEC) to reactivate the license.

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

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

Public Comment

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

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Susan Reynolds
 Professional Licensure Division
 Department of Public Health
 Lucas State Office Building
 Des Moines, Iowa 50319-0075
 Email: susan.reynolds@idph.iowa.gov

Public Hearing

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

September 4, 2018	Fifth Floor Conference Room 526
7:30 to 8 a.m.	Lucas State Office Building
	Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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 action is proposed:

Amend subparagraph **41.14(3)“b”(3)** as follows:

(3) Verification of passing the SPEC if the applicant does not have a current license and has not ~~been in active practice~~ had an active license in the United States during three of the past five years.

ARC 3944C

PROFESSIONAL LICENSURE DIVISION[645]**Notice of Intended Action****Proposing rule making related to physical therapy licensure compact and background check requirements and providing an opportunity for public comment**

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

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Purpose and Summary

The proposed amendments define the requirements for participation in the physical therapy licensure compact, add background check requirements for initial licensure and licensure by endorsement for all physical therapist (PT) and physical therapist assistant (PTA) applicants, add a fee for the issuance of a compact privilege to practice in Iowa, and waive the compact privilege fee for an active duty military member or spouse.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. No costs are involved for the Department of Public Health. All new PT and PTA licensure applicants will be required to pay the fee for a criminal background check regardless of whether or not they choose to participate in the PT licensure compact.

Jobs Impact

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

Waivers

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

Public Comment

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

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

Public Hearing

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

September 4, 2018	Fifth Floor Conference Room 526
8 to 8:30 a.m.	Lucas State Office Building
	Des Moines, Iowa

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

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

PROFESSIONAL LICENSURE DIVISION[645](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. Renumber subrules **200.2(5)** to **200.2(8)** as **200.2(6)** to **200.2(9)**.

ITEM 2. Adopt the following **new** subrule 200.2(5):

200.2(5) The applicant shall submit two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI). The cost of the criminal history background check by the DCI and the FBI shall be assessed to the applicant.

ITEM 3. Adopt the following **new** rule 645—200.3(147):

645—200.3(147) Physical therapy compact. The rules of the physical therapy compact commission are incorporated by reference. A physical therapist or physical therapist assistant may engage in the practice of physical therapy in Iowa without a license issued by the board if the individual has a current compact privilege to practice in Iowa issued by the physical therapy compact commission. The state fee for issuance of a compact privilege to practice in Iowa shall be \$60, which will be collected by the physical therapy compact commission. The state fee for issuance of a compact privilege to practice in Iowa shall be waived for an active duty military member or spouse of an individual who is an active duty military member. A physical therapist or physical therapist assistant who practices physical therapy in Iowa using a compact privilege is subject to the rules governing licensees in rule 645—200.6(147) and in 645—Chapters 201 and 202. Complaints, investigations, and disciplinary proceedings involving a compact privilege shall be handled in accordance with Iowa Code chapters 17A and 272C; 2018 Iowa Acts, House File 2425; and the rules in 645—Chapters 9, 11, 12, and 13.

ITEM 4. Reletter paragraphs **200.7(1)“e”** and **“f”** as **200.7(1)“f”** and **“g.”**

ITEM 5. Adopt the following **new** paragraph **200.7(1)“e”**:

e. Submits two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI). The cost of the criminal history background check by the DCI and the FBI shall be assessed to the applicant;

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions Katie Averill, Superintendent of Banking Ronald L. Hansen, and Auditor of State Mary Mosiman has established today the following rates of interest for public obligations and special assessments. The usury rate for August is 5.00%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants	Maximum 6.0%
74A.4 Special Assessments	Maximum 9.0%

TREASURER OF STATE(cont'd)

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Financial Institutions as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective August 9, 2018, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS		
7-31 days	.....	Minimum .25%
32-89 days	.....	Minimum .25%
90-179 days	.....	Minimum .40%
180-364 days	.....	Minimum .50%
One year to 397 days	.....	Minimum .70%
More than 397 days	.....	Minimum .95%

These are minimum rates only. All time deposits are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 3936C

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Notice of Intended Action

Proposing rule making related to veterans trust fund and providing an opportunity for public comment

The Iowa Department of Veterans Affairs hereby proposes to amend Chapter 14, "Veterans Trust Fund," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 35A.13.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 35A.13.

Purpose and Summary

The Iowa Commission of Veterans Affairs is cleaning up Chapter 14 rules related to the Veterans Trust Fund, making all areas of assistance consistent for eligibility requirements. The rules have not been changed since the program began in 2007.

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](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.

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, 2018. Comments should be directed to:

Missy Miller
Iowa Department of Veterans Affairs
Camp Dodge, Bldg. #3465
7105 NW 70th Avenue
Johnston, Iowa 50131
Email: melissa.miller2@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend rule 801—14.4(35A) as follows:

801—14.4(35A) Benefits available. Applications may be approved for any of the following purposes. By a majority vote, the commission may suspend some or all of these benefits for payment.

14.4(1) Travel expenses for wounded veterans, and their spouses, directly related to follow-up medical care. Travel expenses under this subrule include the unreimbursed cost of airfare, lodging, and a per diem of \$25 per day for required out-of-state medical travel that exceeds 125 miles from the veteran’s home. Spouses may be reimbursed for in-state lodging and a per diem of \$25 per day when visiting a veteran who is in a hospital for medical care related to a service-connected disability. The distance from the veteran’s home to the hospital must exceed 100 miles. The veteran or the veteran’s spouse shall provide such evidence as the commission may require, which includes but is not limited to

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

evidence the injury or disability is service-connected, the necessity of treatment in a particular facility, and documentation of expenses. The maximum amount for lodging reimbursement shall be \$90. The maximum amount of aid payable in a consecutive 12-month period under this subrule is \$1,000. The commission may waive the income threshold for this benefit.

14.4(2) *Job training or college tuition assistance for job retraining.*

a. The commission may pay a veteran not more than \$3,000 for retraining or postsecondary education to enable the veteran to obtain gainful employment. The commission may provide aid under this subrule if all of the following apply:

(1) The veteran is enrolled in a training course in a technical college or school, is enrolled in an accredited postsecondary institution, or is engaged in a structured on-the-job training program.

(2) The veteran is unemployed, underemployed, or has received a notice of termination of employment.

(3) The commission determines that the veteran's proposed program, or current program, will provide retraining or initial training that could enable the veteran to find gainful employment. In making its determination, the commission shall consider whether the proposed program, or current program, provides adequate employment skills and is in an occupation for which favorable employment opportunities are anticipated.

(4) The veteran requesting aid has not received full reimbursement or payment from any other retraining or education scholarship programs and the veteran does not have other assets or income available to meet retraining or initial training expenses. Applicants requesting aid under this subrule will only be granted the unpaid portion of their tuition statement, and the payment will be made directly to the institution.

b. The veteran shall provide such evidence as the commission may require to satisfy the requirements of this subrule.

14.4(3) *Unemployment or underemployment assistance during a period of unemployment or underemployment due to prolonged physical or mental illness resulting from military service or disability resulting from military service (must be physically and mentally able to return to work).* The commission may provide subsistence payments only to a veteran who has suffered a loss of income due to prolonged physical or mental illness resulting from military service or disability resulting from military service. The commission may provide subsistence payments of up to \$500 per month of unemployment or underemployment to a veteran. A veteran must provide documentation of assistance from Iowa workforce development and vocational rehabilitation, if eligible. No payment may be made under this subrule if the veteran has other assets or income available to meet basic subsistence needs. A period of unemployment implies that it is possible for the veteran to be employed in the future. A rating from the VA of 100 percent due to individual unemployability (IU) rated permanent and total indicates that a veteran is unemployable and will not qualify for assistance under this subrule. The veteran shall provide such evidence as the commission may require, which includes but is not limited to evidence that the mental illness or disability is service-connected and evidence that the veteran is unemployed or underemployed for the period of payments. To qualify as underemployed, the applicant must be currently working at an income that is below 150 percent of federal poverty guidelines due to limitations caused by the applicant's service-connected disability or illness. The maximum amount of aid payable in a consecutive 12-month period under this subrule is \$3,000 and a lifetime maximum of \$6,000.

14.4(4) *Expenses related to hearing care, dental care, vision care, or prescription drugs.*

a. The commission may provide health care aid to a veteran, to the veteran's spouse or dependents, or to the unremarried spouse of a deceased veteran for dental care, including dentures; vision care, including eyeglass frames and lenses; hearing care, including hearing aids; and prescription drugs that are not covered by the Veterans Affairs medical center.

b. The maximum amount that may be paid under this subrule for any consecutive 12-month period may not exceed \$2,500 for dental care, \$500 for vision care, \$1,500 per ear for hearing care, and \$1,500 for prescription drugs. Lifetime maximum benefit: \$10,000.

c. The commission shall not provide health care aid under this subrule unless the aid recipient's health care provider agrees to accept, as full payment for the health care provided, the amount of the

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

payment; the amount of the recipient's health insurance or other third-party payments, if any; and the amount that the commission determines the veteran is capable of paying. Payment under this subrule will be provided directly to the health care provider. The commission shall not pay health care aid under this subrule if the available liquid assets of the veteran are in excess of ~~\$5,000~~ \$15,000.

d. Applicants for assistance under this subrule will be required to provide the commission with an unpaid bill for service or an estimated cost of service from the health care provider and documentation of the need for the service. For prescription drugs, the applicant must produce documentation of the need for the prescribed drug and documentation stating whether a generic drug is available or appropriate. The commission payment will not exceed an estimated cost of service by a health care provider.

14.4(5) *Expenses relating to the purchase of durable equipment or services to allow a veteran, the veteran's spouse or dependents, or the unremarried spouse of a deceased veteran to remain in their home.*

a. The commission may make reimbursement payments to a veteran or to the unremarried spouse of a deceased veteran for the purchase of durable equipment that allows the veteran, the veteran's spouse or dependents, or the unremarried spouse of a deceased veteran to remain in their home or allows them the ability to utilize more of their home.

b. Individuals requesting reimbursement under this subrule will be required to provide verification of the purchase and installation of the equipment and information relating to the need for the equipment. Individuals may also provide a product and installation cost estimate to the commission for approval, with the understanding that the commission will pay no more than the cost estimate to the supplier or installer. Applicants needing durable equipment as a medical necessity should provide information from a physician.

c. Assistance under this subrule cannot duplicate assistance from other entities, and the maximum amount that may be paid may not exceed \$2,500.

d. The commission shall not pay a reimbursement under this subrule if the available liquid assets of the veteran are in excess of ~~\$5,000~~ \$15,000.

14.4(6) *Individual counseling or family counseling programs.*

a. The commission may make mental health, substance abuse, and family counseling available to veterans and their families. Individual family members are eligible for counseling.

b. The assistance may include appropriate counseling and treatment programs for veterans and their families in need of services.

c. Any assistance provided under this subrule shall not duplicate other services readily available to veterans and their families. Veterans who are eligible for VA mental health services must initially visit their nearest VA medical facility for initial consultation and continued psychiatric treatment. Payment under this subrule will be made for additional services for the veteran in a location closer to the veteran's home and at a greater frequency than the VA medical center can accommodate.

d. The commission may provide up to \$150 per hour and \$75 per half-hour for outpatient counseling visits to providers who will accept as full payment for the counseling services the amount provided. Counseling and substance abuse services provided in a group setting may be paid up to \$40 per hour. Counseling and substance abuse services may also be provided in an inpatient setting, subject to the maximum amount eligible under 14.4(6) "f."

e. The maximum amount that may be paid under this subrule for any consecutive 12-month period shall not exceed \$5,000. Individuals seeking counseling services are eligible for up to \$2,500, individuals seeking substance abuse treatment and counseling combined are eligible for up to \$3,500, and families seeking counseling services that may also include individual counseling and substance abuse services are eligible for up to \$5,000.

f. The commission may not provide counseling under this subrule unless the aid recipient's counseling service provider agrees to accept, as full payment for the counseling services provided, the amount of the payment; the amount of the recipient's health insurance or other third-party payments, if any; and the amount that the commission determines the veteran is capable of paying. The commission will make payment directly to the entity providing counseling and substance abuse services. The

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

commission shall not pay for counseling under this subrule if the available liquid assets of the veteran are in excess of ~~\$5,000~~ \$15,000.

14.4(7) *Expenses relating to ambulance and emergency room services for veterans and emergency lodging for immediate family members.*

a. The commission may provide assistance to veterans for expenses related to ambulance trips, including air ambulance transportation, and emergency room visits for emergency care patients or VA health care patients ~~that~~ who cannot indicate to emergency personnel that they are to be presented to a VA medical center.

b. Funding through this subrule shall be paid directly to the entity providing the emergency service or transportation after the commission is provided with an unpaid bill. All efforts should be made to utilize all other methods of payment prior to accessing assistance under this subrule.

c. The maximum amount that may be paid under this subrule may not exceed ~~\$5,000~~ \$7,500.

14.4(8) *Emergency expenses related to vehicle repair, housing repair, or temporary housing assistance.*

a. The commission may provide assistance to a veteran or to the unremarried spouse of a deceased veteran for emergency vehicle repair, emergency housing repair, and temporary housing.

b. Assistance for vehicle repair is limited to expenses that are required for continued use of the vehicle. This assistance will only be granted in cases where the vehicle is needed for travel to and from work-related activities, the applicant is over the age of 65, or substantial hardship will occur if the vehicle is not repaired. Assistance may be provided in situations where the applicant does not have sufficient means to pay an insurance deductible. Assistance may be paid directly to the entity performing the maintenance or the insurance company owed the deductible. In certain circumstances, reimbursement may be made to the veteran or to the unremarried spouse of a deceased veteran in order for the vehicle to be released from the entity providing the service. Assistance will not be provided for damage caused during the commission of a crime, for cosmetic needs, for damage resulting in an auto accident when automobile insurance has not been purchased, or for routine maintenance.

c. Assistance for home repair is limited to repairs that are required to improve the conditions and integrity of the home and are necessary for the safety and security of the residents. Applicants with homeowners insurance may request assistance for payment of a deductible. Assistance may be provided for applicants in disaster situations, home accidents, vandalism, or other situations as determined by the commission. In situations where a home is damaged beyond repair, assistance under this subrule is available to assist the applicant in purchasing a new home.

d. Assistance for transitional housing may be provided to applicants who are displaced from their home during a period of repairs related to a disaster, vandalism, home accident, or other reason that makes staying in the home hazardous to the health of the residents. Any refunded security deposits paid for under this subrule shall be returned to the Iowa veterans trust fund.

e. The maximum amount that may be paid under this subrule for any consecutive 12-month period may not exceed \$2,500 for vehicle repair, \$3,000 for housing repair, and \$1,000 for transitional housing. Lifetime maximum benefit for housing repair and vehicle repair: \$10,000 each.

f. The commission shall not pay a reimbursement under this subrule if the available liquid assets of the veteran are in excess of ~~\$3,000~~ \$15,000.

14.4(9) *Expenses related to establishing whether a minor child is a dependent of a deceased veteran.*

a. The commission may provide assistance to the family of veterans who are killed while serving on active federal service, for expenses related to paternity or maternity tests or the cost of procuring additional DNA samples from the deceased veteran. This assistance is available to determine whether a child is eligible for United States Department of Veterans Affairs war orphan benefits.

b. Applicants are required to provide the results of the paternity or maternity examinations to the commission upon completion of the tests. Where the deceased veteran is not the parent of the child, the applicant will be required to repay the assistance received as provided in 801—14.6(35A).

c. The maximum amount that may be paid under this subrule is \$2,500.

d. The commission may waive the income threshold for this benefit.

14.4(10) *Family support group programs or programs for children of members of the military.*

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

a. The commission may award grants to unit family readiness/support groups, family support offices, and other such organizations providing support and programs to families and children of family members.

b. The grant shall be only for projects or programs which are not funded from any other source. The commission shall determine if the applicant's proposed project or program will provide the intended support. In making its determination, the commission shall consider whether the proposed program will provide anticipated favorable results.

c. The maximum amount of aid payable in a consecutive 12-month period under this subrule to a family readiness/support group is \$500.

14.4(11) Honor guard services.

a. The commission may reimburse veterans organizations for providing military funeral honors as follows:

(1) If a single veterans organization provides basic honors, \$25.

(2) If a single veterans organization provides full honors, \$50.

(3) If two or more veterans organizations participate in providing full honors and one of the organizations provides a firing detail, \$50. The organizations may request that the commission split the reimbursement.

(4) If two or more veterans organizations participate in providing basic honors, \$25. Payment shall be to one veterans organization, as determined by the commission.

b. Notwithstanding paragraph 14.4(11)“*a*,” the commission shall not reimburse a veterans organization if federal funding is available to reimburse the veterans organization for providing military funeral honors. The veterans organization shall request reimbursement from federal sources. If a veterans organization receives federal funding for providing military funeral honors at the reimbursement rate of one funeral per day, the department shall reimburse the organization for the provision of military funeral honors at any additional funerals on that day.

c. The maximum amount of aid payable in a calendar year under this subrule to a veterans organization is \$1000.

d. Veterans service organizations that are not currently providing honor guard services may apply for a \$500, up-front grant, for the use of creating a new honor guard within their organization. Applicants must present the commission with an estimated cost for purchasing uniforms and firearms for providing military honors and an estimated number of members who will be available to perform honor guard services. Organizations should also provide information regarding how they plan to pay for additional expenses that may occur outside of trust fund assistance. Applicants will be eligible for reimbursements under paragraphs 14.4(11)“*a*” to “*c*” 12 months after the receipt of their original \$500 grant.

14.4(12) Matching funds to veterans service organizations to provide for accredited veteran service officers.

a. The commission may provide matching funds to veterans service organizations for maintaining accredited veteran service officers located at the Des Moines Veterans Affairs Regional Office.

b. Funding for all service organizations combined is available in an amount of up to 20 percent of the interest and earnings on the trust fund balance during the fiscal year or \$150,000, whichever is less.

c. Service organizations requesting funding from the trust fund must provide financial data on the level of organizational funding for the staffing and operation of an office in the Des Moines Veterans Affairs Regional Office. Of the available amount outlined in this subrule, assistance will be split evenly among the service organizations eligible for the trust fund assistance. If the service organization's expenditures are less than ~~their~~ its share of the grant, the grant amount will be reduced to the amount of ~~their~~ the organization's previous fiscal year's expenditures.

d. Service organizations will be required to maintain the same level of expenditures in the year they receive funding as in the previous year. Funding will be recaptured by the treasurer of the state of Iowa if this funding is used to supplant funding from an individual veterans service organization. Trust fund assistance will not be included in future fiscal year maintenance of effort requirements. A report on the previous fiscal year's expenditures will be required to determine the maintenance of effort for the organization.

ARC 3945C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Proposing rule making related to claims and benefits and providing an opportunity for public comment

The Workforce Development Department hereby proposes to amend Chapter 24, "Claims and Benefits," and Chapter 25, "Benefit Payment Control," 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, Iowa Code chapter 96.

Purpose and Summary

These proposed amendments rescind a previous change that the Department has determined was not appropriate regarding the role of the Administrative Judge in determining a disqualification for failure to report. Further clarifying rules may be proposed in the future. Also, current procedures allow for an inequity to develop in cases of overpayment where a claimant may have exhausted the claimant's entire claim. This proposed rule making will ensure that claimants who are overpaid do not have that overpayment eliminated by the simple addition of claim weeks they would otherwise have been ineligible to receive.

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.

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, 2018. Comments should be directed to:

David Steen, Attorney
Department of Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Email: david.steen@iwd.iowa.gov

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Rescind paragraph **24.6(7)“f.”**

ITEM 2. Amend subrule 25.8(1) as follows:

25.8(1) Good faith overpayment. If an individual has acted in good faith in claiming benefits for any week and it is later determined that the individual ~~is~~ was not entitled to receive the benefits, the department shall recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment. During a benefit year in which the maximum benefit amount has been paid or the maximum number of weeks has been paid and an overpayment is established for any benefits paid that the individual was not entitled to during that benefit year, no additional benefits will be payable to offset the overpayment. The department shall mail the overpayment decision to the claimant’s last-known address. Once the overpayment amount has been established, an overpayment schedule shall be set up to leave a proper audit trail even if the claimant pays to the department a sum equal to the overpayment.

a. to d. No change.

ARC 3963C**DENTAL BOARD[650]****Adopted and Filed****Rule making related to overpayment**

The Dental Board hereby amends Chapter 1, “Administration,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.80.

Purpose and Summary

The amendment updates the definition of “overpayment” to more closely match the definition of “fee” in rule 650—15.2(147,153).

The current definition of “overpayment” indicates that overpayments of less than \$10 shall not be refunded. A recently adopted amendment to 650—Chapter 15 indicates that requests received with an overpayment shall be returned prior to processing. The definition of “fee” was updated following comments received from the Administrative Rules Review Committee. The amendment eliminates confusion about the process for handling overpayments.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 28, 2018, as **ARC 3703C**. A public hearing was held on April 24, 2018, at 2 p.m. in the Board Office, Suite D, 400 S.W. Eighth Street, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on June 8, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 650—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).

DENTAL BOARD[650](cont'd)

Effective Date

This rule making will become effective on September 19, 2018.

The following rule-making action is adopted:

Amend rule **650—1.1(153)**, definition of “Overpayment,” as follows:

“Overpayment” means payment in excess of the required fee. Overpayment of less than \$10 received by the board shall not be refunded shall result in the return of the original request and payment, prior to processing, with a clarification of the total amount due.

[Filed 7/17/18, effective 9/19/18]

[Published 8/15/18]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/15/18.

ARC 3961C

DENTAL BOARD[650]**Adopted and Filed****Rule making related to licensure of foreign-trained dentists**

The Dental Board hereby amends Chapter 11, “Licensure to Practice Dentistry or Dental Hygiene,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.2, 147.33 and 153.21.

Purpose and Summary

The amendments to rule 650—11.4(153) implement a clearer pathway for foreign-trained dentists to obtain licensure in Iowa. Historically, the Board has approved a number of rule waivers allowing foreign-trained dentists to obtain licensure in Iowa if they completed a minimum of one year in a general practice residency at an ADA-accredited dental school in lieu of the education currently required by rule. The amendments to rule 650—11.4(153) reflect the circumstances under which the Board has historically approved rule waivers. The amendments also update the references to successful completion of the Test of English as a Foreign Language (TOEFL) and remove the reference to the Test of Spoken English (TSE) since this examination is no longer offered.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 28, 2018, as **ARC 3705C**. A public hearing was held on April 24, 2018, at 2 p.m. in the Board Office, Suite D, 400 S.W. Eighth Street, Des Moines, Iowa. No one attended the public hearing. No public comments were received. One change has been made since publication of the Notice to add a citation to Iowa Code chapter 147 in the implementation sentence of rule 650—11.4(153).

Adoption of Rule Making

This rule making was adopted by the Board on June 8, 2018.

DENTAL BOARD[650](cont'd)

Fiscal Impact

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

Jobs Impact

More practitioners may qualify for licensure under this amendment, as opposed to the more limited program and requirements currently established.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 650—Chapter 7.

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 19, 2018.

The following rule-making action is adopted:

Amend rule 650—11.4(153) as follows:

650—11.4(153) Graduates of foreign dental schools. In addition to meeting the other requirements for licensure specified in rule 650—11.2(147,153) or 650—11.3(153), an applicant for dental licensure who did not graduate with a DDS or DMD from an accredited dental college approved by the board must provide satisfactory evidence of meeting the following requirements.

11.4(1) The applicant must complete a full-time, ~~undergraduate supplemental~~ dental education program of ~~at least two academic years~~ at an accredited dental college. ~~The undergraduate supplemental dental education program must provide didactic and clinical education to the level of a DDS or DMD graduate of the dental college.~~ The program must consist of either:

a. An undergraduate supplemental dental education program of at least two academic years. The undergraduate supplemental dental education program must provide didactic and clinical education to the level of a DDS or DMD graduate of the accredited dental college; or

b. A postgraduate general practice residency program of at least one academic year.

11.4(2) The applicant must receive a dental diploma, degree or certificate from the accredited dental college upon successful completion of the program.

11.4(3) The applicant must present to the board the following documents:

a. ~~An official transcript issued by the accredited dental college that verifies completion of all coursework requirements of the undergraduate supplemental dental education program;~~ Satisfactory evidence of completion of board-approved dental education at an accredited dental college;

b. ~~A dental diploma, degree or certificate issued by the accredited dental college or a certified copy thereof;~~

c. ~~A letter addressed to the board from the dean of the accredited dental college verifying that the applicant has successfully completed the requirements set forth in 11.4(1);~~

~~*b.*~~ *b.* A final, official transcript verifying graduation from the foreign dental school at which the applicant originally obtained a dental degree. If the transcript is written in a language other than English, an original, official translation shall also be submitted; and

DENTAL BOARD[650](cont'd)

e. c. Verification from the appropriate governmental authority that the applicant was licensed or otherwise authorized by law to practice dentistry in the country in which the applicant received foreign dental school training and that no adverse action was taken against the license.

11.4(4) The applicant must demonstrate to the satisfaction of the board an ability to read, write, speak, understand, and be understood in the English language. The applicant may demonstrate English proficiency by submitting to the board proof evidence of a passing score on one of the following examinations: achieving a score sufficient to be rated in the highest level of ability on each section of the Test of English as a Foreign Language (TOEFL) as administered by the Educational Testing Service (ETS).

a. ~~Test of English as a Foreign Language (TOEFL) administered by the Educational Testing Service. A passing score on TOEFL is a minimum overall score of 550 on the paper-based TOEFL or a minimum overall score of 213 on the computer-administered TOEFL.~~

b. ~~Test of Spoken English (TSE) administered by the Educational Testing Service. A passing score on TSE is a minimum of 50.~~

This rule is intended to implement Iowa Code ~~chapter~~ chapters 147 and 153.

[Filed 7/17/18, effective 9/19/18]

[Published 8/15/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/15/18.

ARC 3962C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to colleges and continuing education for chiropractic physicians

The Board of Chiropractic hereby amends Chapter 42, "Colleges for Chiropractic Physicians," and Chapter 44, "Continuing Education for Chiropractic Physicians," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 147.76, 151.11 and 272C.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 151 and 272C.

Purpose and Summary

These amendments remove outdated or redundant references and reduce the number of continuing education hours required per biennium.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 9, 2018, as **ARC 3774C**. A public hearing was held on May 29, 2018, at 8 a.m. in the Fifth Floor Conference Room 526, Lucas State Office Building, Des Moines, Iowa. Representatives of the Iowa Chiropractic Society were in attendance to support the amendments. No public comments were received. One change from the Notice has been made. A cross reference to the mandatory reporter training requirements was added to subrule 44.3(2).

Adoption of Rule Making

This rule making was adopted by the Board on July 11, 2018.

PROFESSIONAL LICENSURE DIVISION[645](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

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

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 19, 2018.

The following rule-making actions are adopted:

ITEM 1. Rescind and reserve subrule **42.2(2)**.

ITEM 2. Amend subrule 42.5(1) as follows:

42.5(1) The board shall approve a chiropractic physician to be a chiropractic physician preceptor if the chiropractic physician meets the following criteria:

a. The chiropractic physician holds a current Iowa chiropractic license and has continuously held licensure in the United States for the previous five years prior to preceptorship;

b. The chiropractic physician is currently fully credentialed by the sponsoring chiropractic college and approved by the board; and

c. The chiropractic physician has not had any formal disciplinary action or has not, within the past three years, been a party to a malpractice settlement or judgment within the past three years which the board has determined to be disqualifying.

~~The preceptor shall supervise no more than one chiropractic intern or one chiropractic resident for the duration of the preceptorship period.~~

ITEM 3. Amend rule 645—42.6(151) as follows:

645—42.6(151) Termination of preceptorship. A preceptorship shall may terminate upon the occurrence of one of the following events:

42.6(1) Interns. The intern graduates from a board-approved college of chiropractic.

42.6(2) Residents. Twelve months have passed since the resident graduated from a board-approved college of chiropractic.

42.6(3) Formal disciplinary action is taken against the preceptor or the preceptor is a party to a final malpractice judgment or settlement agreement.

ITEM 4. Amend rule 645—44.1(151) as follows:

645—44.1(151) Definitions. For the purpose of these rules, the following definitions shall apply:

“Active license” means a license that is current and has not expired.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

~~“Approved program/activity” means a continuing education program/activity meeting the standards set forth in these rules.~~

“Audit” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“Board” means the Iowa board of chiropractic.

“Clinical case management” means coursework pertaining to diagnosis, treatment, and appropriate referral or coordination of care.

“Continuing education” means planned, organized learning acts meeting the standards set forth in these rules, acquired during licensure, and designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of chiropractic practice, education, or theory development to improve the safety and welfare of the public.

“Hour of continuing education” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Independent study” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest and certificate of completion.

“License” means license to practice chiropractic in Iowa.

“Licensee” means any person licensed to practice as a chiropractic physician in the state of Iowa.

ITEM 5. Amend rule 645—44.2(272C) as follows:

645—44.2(272C) Continuing education requirements.

44.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 of each even-numbered year and ending on June 30 of each even-numbered year two years later. ~~Each~~ Starting with the 2018-2020 biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of ~~60~~ 40 hours of continuing education approved by the board.

~~44.2(2) Rescinded IAB 8/3/05, effective 9/7/05.~~

~~44.2(3)~~ **44.2(2)** Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses with the exception of two hours in the content areas of ~~Iowa Administrative Code, 645—Chapters 40 41 through 46 45~~ and Iowa Code chapter 151. Continuing education hours acquired anytime from the initial licensing until the second license renewal, with the exception of two hours in the content areas of ~~Iowa Administrative Code, 645—Chapters 40 41 through 46 45~~ and Iowa Code chapter 151, may be used. The new licensee will be required to complete a minimum of ~~60~~ 40 hours of continuing education per biennium for each subsequent license renewal.

~~44.2(4)~~ **44.2(3)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

~~44.2(5)~~ **44.2(4)** No hours of continuing education shall be carried over into the next biennium except as stated in ~~44.2(3)~~ 44.2(2) and 44.3(2)“a”(3). A licensee whose license is reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

~~44.2(6)~~ **44.2(5)** It is the responsibility of each licensee to finance the cost of continuing education.

ITEM 6. Amend subrule 44.3(2) as follows:

44.3(2) Specific criteria.

a. Continuing education hours of credit shall be obtained by completing:

(1) At least 36 hours of continuing education credit obtained from a program that directly relates to clinical case management of chiropractic patients. ~~Beginning with the July 1, 2014, to June 30, 2016, renewal cycle, at~~ At least 20 of these hours shall be earned by completing a program in which an instructor

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

conducts the class by employing a traditional in-person, classroom-type presentation and the licensee is in attendance in the same room as that instructor. The remaining 16 hours of continuing education credit relating to clinical case management of chiropractic patients may be obtained by independent study, including any ~~on-line~~ online instruction, that complies with conditions specified in 645—44.1(151) 44.3(1).

(2) A minimum of two hours per biennium in professional boundaries regarding ethical issues related to professional conduct that may include but are not limited to sexual harassment, sensitivity training and ethics.

(3) ~~Starting with the 2006 renewal cycle, a~~ A minimum of 12 hours per biennium of continuing education in the field of acupuncture if the chiropractic physician is engaged in the practice of acupuncture. ~~Continuing education hours in the field of acupuncture earned between December 31, 2003, and June 30, 2004, up to a maximum of 12 hours may be used to satisfy licensure renewal requirements for either the 2004 or 2006 renewal cycle. The licensee may use the earned continuing education credit hours only once. Credit can not be duplicated for both the 2004 and 2006 compliance periods. Chiropractic physicians not engaged in the active practice of acupuncture may take continuing education hours in the field of acupuncture for continuing education credit.~~

(4) Classes on child abuse and dependent adult abuse that meet the criteria in ~~subrule 645—subrules 41.8(4) and 44.3(1).~~

(5) Two hours of continuing education credit at the time of the first biennial renewal period and one hour every biennial renewal period after that in the content areas of ~~Iowa Administrative Code, the administrative rules related to chiropractic physicians in Iowa, found at 645—Chapters 40 41 through 46 45 and the statutory provisions specific to the practice of chiropractic in Iowa, found at Iowa Code chapter 151.~~

b. Continuing education hours of credit may be obtained by:

(1) Teaching at a Council on Chiropractic Education (CCE)-approved program or board of chiropractic-approved institution. A maximum of 15 hours per biennium may be obtained for each course taught.

(2) Completing electronically transmitted programs/activities or independent study programs/activities that have a certificate of completion ~~that meets criteria in 645—44.3(151,272C).~~

(3) A licensee who is a presenter of a continuing education program ~~that meets criteria in 645—44.3(151,272C)~~ may receive credit once per biennium for the initial presentation of the program.

(4) Completing ~~continuing education that meets criteria in 645—44.3(151,272C)~~ or a program provided by a CCE-accredited chiropractic college in the United States, the Iowa Chiropractic Society, American Chiropractic Association or International Chiropractors Association.

(5) Completing continuing education courses/programs that are certified by the Providers of Approved Continuing Education (PACE) through the Federation of Chiropractic Licensing Boards (FCLB).

(6) Proctoring at the NBCE examination. Fifteen hours of continuing education hours per NBCE examination event may be claimed up to a maximum of 30 hours of continuing education credit per biennium. The proctoring hours may apply toward the clinical requirement.

c. Continuing education may not be obtained by completing or teaching classes in basic anatomy and physiology or undergraduate level coursework.

[Filed 7/23/18, effective 9/19/18]

[Published 8/15/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/15/18.

ARC 3956C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to practice and discipline of chiropractic physicians

The Board of Chiropractic hereby amends Chapter 43, “Practice of Chiropractic Physicians,” and Chapter 45, “Discipline for Chiropractic Physicians,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 147.76, 151.11 and 272C.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 147, 151, 272C and 514F.

Purpose and Summary

These amendments establish rules related to sexual misconduct and failure to maintain a patient record(s). The amendments also define electronic records and set forth reporting requirements for a chiropractic insurance consultant. All other changes are technical in nature.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 25, 2018, as **ARC 3754C**. A public hearing was held on May 15, 2018, at 7:30 a.m. in the Fifth Floor Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. Three changes from the Notice were made. In Item 2, “of” was stricken in the phrase “of the location” in subrule 43.4(2) for clarity. Based on recommendations received from the Administrative Rules Review Committee and legal counsel, the Board did not adopt proposed subrule 45.2(34) on direct solicitation and revised new paragraph 45.2(28)“f” regarding doctor/patient relationships.

Adoption of Rule Making

This rule making was adopted by the Board on July 11, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

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

Effective Date

This rule making will become effective on September 19, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 645—43.3(514F) as follows:

645—43.3(151,514F) Utilization and cost control review.

43.3(1) Pursuant to Iowa Code section 514F.1, the board shall establish utilization and cost control review (UCCR) committee(s). A UCCR committee shall be established by approval of the board upon a showing that the committee meets the requirements of this rule. The name of each committee and a list of committee members shall be on file with the board and available to the public. As a condition of board approval, each committee shall agree to submit to the board an annual report which meets the requirements of this rule.

43.3(2) to 43.3(8) No change.

ITEM 2. Amend subrule 43.4(2) as follows:

43.4(2) All licensees who review chiropractic records for the purposes of determining the adequacy or sufficiency of chiropractic treatments, or the clinical indication for those treatments, shall ~~notify the board annually~~ indicate on their licensure renewals that they are engaged in those activities and of the location where those activities are performed.

ITEM 3. Amend subrules 43.10(4) and 43.10(8) as follows:

43.10(4) Electronic record keeping. When electronic records, which include both electronically created records and scanned paper records, are utilized, a chiropractic physician shall maintain either a duplicate hard-copy record or a backup electronic record.

43.10(8) Confidentiality and transfer of records. Chiropractic physicians shall preserve the confidentiality of patient records. Upon signed request of the patient, the chiropractic physician shall furnish such records or copies of the records as directed by the patient within 30 days. A notation indicating the items transferred, date of transfer and method of transfer shall be maintained in the patient record. The chiropractic physician may charge a reasonable fee for duplication of records, but may not refuse to transfer records for nonpayment of any fees. A written request may be required before the transfer of the record(s), including, for example, compliance with HIPAA regulations. In certain instances, a summary of the record may be more beneficial for the future treatment of the patient; however, if a third party requests copies of the original documentation, that request must be honored.

ITEM 4. Amend **645—Chapter 43**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 147, 151, 272C and 514F.

ITEM 5. Amend rule 645—45.2(151,272C) as follows:

645—45.2(151,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—45.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

45.2(1) No change.

45.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other chiropractic physicians in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average chiropractic physician acting in the same or similar circumstances.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

d. Failure to conform to the minimal standard of acceptable and prevailing practice of a chiropractic physician in this state.

e. Inability to practice with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

~~*g.* Failure to maintain a patient's record(s) for a minimum of six years after the date of last examination or treatment. Records for minors shall be maintained for one year after the patient reaches the age of majority (18) or six years after the date of last examination or treatment, whichever is longer. Proper safeguards shall be maintained to ensure the safety of records from destructive elements. This provision includes both clinical and fiscal records.~~

45.2(3) to 45.2(27) No change.

45.2(28) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but need not be limited to, the following:

a. Verbally or physically abusing a patient, client or coworker.

b. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker, regardless of the patient's, client's, or coworker's consent.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

e. Engaging in a sexual or emotional relationship with a former patient when there is a risk of exploitation or harm to the patient, regardless of patient consent.

f. Failing to terminate the doctor-patient relationship before dating or having a sexual relationship with a patient. Such termination shall be done in writing and signed by both the patient and the chiropractic physician and placed in the patient's record. This paragraph shall not apply to a chiropractic physician who is treating the chiropractic physician's spouse or to a sexual relationship that predates the initiation of the doctor-patient relationship. Further, a chiropractic physician shall not have consensual sexual relations with a former patient until three months after the termination of the doctor-patient relationship.

45.2(29) to 45.2(31) No change.

45.2(32) Failure to respond within 30 days of receipt of communication from the board which was sent by registered or certified mail.

45.2(33) Failure to maintain a patient's record(s) for a minimum of six years after the date of last examination or treatment. Records for minors shall be maintained for one year after the patient reaches the age of majority (18) or six years after the date of last examination or treatment, whichever is longer. Proper safeguards shall be maintained to ensure the safety of records from destructive elements. This provision includes both clinical and fiscal records.

[Filed 7/24/18, effective 9/19/18]

[Published 8/15/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/15/18.

ARC 3957C

SOIL CONSERVATION AND WATER QUALITY DIVISION[27]

Adopted and Filed

Rule making related to water quality initiative

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

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

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 161A.4(6).

State or Federal Law Implemented

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

Purpose and Summary

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

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 20, 2018, as **ARC 3847C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Division on July 25, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 27—Chapter 8.

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 19, 2018.

The following rule-making actions are adopted:

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

ITEM 1. Rescind the definition of “Eligible cost-share applicants” in rule **27—16.2(161A)**.

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

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

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

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

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

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

27—16.4(161A,466B) Eligible practices. Only practices ~~applied to agricultural crop and pasture land~~ whose primary function is to improve improves water quality will be eligible for funds. These practices are identified in the nutrient reduction strategy or by the division. Practices shall meet applicable Natural Resources Conservation Service conservation standards and specifications or applicable standards and specifications set out by the department. Urban infrastructure program projects shall meet the applicable standards in the Iowa storm water management manual published by the department of natural resources. Permanent practices eligible for funding include but are not limited to wetlands, bioreactors, and buffers, structures, land use changes, terraces, waterways and managed drainage systems. Management practices eligible for funding include but are not limited to cover crops and living mulches. Application may be made to the division for cost-share funding for individual cost-share practices or for ~~targeted watershed demonstration~~ projects.

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

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

[Filed 7/25/18, effective 9/19/18]

[Published 8/15/18]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/15/18.

ARC 3958C

**TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION,
IOWA[751]**

Adopted and Filed

Rule making related to sole-source agreements

The Iowa Telecommunications and Technology Commission hereby amends Chapter 5, “Purchasing,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 8D.3.

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 8D.11 and 8D.13.

Purpose and Summary

This rule making will increase the Commission's oversight and accountability of potential sole-source agreements being considered by the Iowa Communications Network. Specifically, the rule making will accomplish two things: (1) eliminate a general and overly broad justification for a sole-source agreement, and (2) require that any sole-source justification form be approved and signed by both the Executive Director and the Chief Financial Officer.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 9, 2018, as **ARC 3781C**. A public hearing was held on June 4, 2018. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on July 19, 2018.

Fiscal Impact

The Commission is unable to determine the number of potential agreements this rule making will impact and is therefore unable to determine if there will be any 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 Commission for a waiver of the discretionary provisions, if any, pursuant to 751—Chapter 9.

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 19, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend paragraphs **5.1(2)“g”** and **“h”** as follows:

g. The item is maintenance services for the network for which the vendor supplies remote maintenance service for network components or software or the vendor supplies software upgrades, patches, modifications or the like electronically or for which the service will preserve equipment or software warranties; ~~or,~~

~~h. The executive director or the commission's designee determines that the best interests of the commission will be served by exemption from the bidding process.~~

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751](cont'd)

ITEM 2. Amend subrule 5.1(3) as follows:

5.1(3) When the annual value of the contract exceeds \$5,000 or when the estimated value of the multiyear contract in the aggregate, including renewals, is equal to or greater than \$15,000, the commission shall complete a sole-source justification form. ~~The executive director or the executive director's designee shall sign the sole-source justification form~~ The sole-source justification form shall be reviewed, approved and signed by both the executive director and the chief financial officer before the commission proceeds with the sole-source procurement.

[Filed 7/27/18, effective 9/19/18]

[Published 8/15/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/15/18.

ARC 3959C

**TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION,
IOWA[751]**

Adopted and Filed

Rule making related to authorized use and users

The Iowa Telecommunications and Technology Commission hereby amends Chapter 7, "Authorized Use and Users," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 8D.3(3)"b."

State or Federal Law Implemented

This rule making implements, in whole or in part, 2017 Iowa Acts, House File 467.

Purpose and Summary

This rule making implements the statutory change made by 2017 Iowa Acts, House File 467, and authorizes the Iowa Communications Network to provide law enforcement communications systems should an appropriate authorized user of the network request such services.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 11, 2018, as **ARC 3723C**. 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 19, 2018.

Fiscal Impact

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

Jobs Impact

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

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751](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 Commission for a waiver of the discretionary provisions, if any, pursuant to 751—Chapter 9.

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 19, 2018.

The following rule-making action is adopted:

Amend rule **751—7.1(8D)**, definition of “State communications,” as follows:

“*State communications*” refers to the transmission of voice, data, video, the written word or other visual signals by electronic means but does not include radio and television facilities and other educational telecommunications systems and services including narrowcast and broadcast systems under the public broadcasting division of the department of education, or the department of transportation distributed data processing and mobile radio network, ~~or law enforcement communications systems.~~

[Filed 7/27/18, effective 9/19/18]

[Published 8/15/18]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/15/18.

ARC 3960C

VETERINARY MEDICINE BOARD[811]

Adopted and Filed

Rule making related to veterinary technician examination fees

The Veterinary Medicine Board hereby amends Chapter 8, “Auxiliary Personnel,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 169.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 169.9.

Purpose and Summary

The amendment clarifies that if a veterinary technician state examination is given by a professional examination service, an additional fee may be charged. The rule currently states that a fee may be charged by a professional examination service for the national veterinary technician examination.

VETERINARY MEDICINE BOARD[811](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 6, 2018, as **ARC 3821C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on July 25, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. The state currently conducts the veterinary technician state examination. If a professional examination service conducted the examination and charged a fee, the fee would go to the company.

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.

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 19, 2018.

The following rule-making action is adopted:

Amend subrule 8.3(1) as follows:

8.3(1) An application fee in an amount determined by the board not to exceed \$45 shall accompany the application to take the veterinary technician state examination; both the fee and the application must be received by the board at least 30 days before the examination. An additional fee shall be submitted for the veterinary technician ~~national~~ examination when a professional examination service is utilized by the board. The additional fee shall be the charges for the examination by the professional examination service plus administrative costs in an amount determined by the board. The fee for the veterinary technician state examination may be waived for qualifying military service personnel upon request.

[Filed 7/25/18, effective 9/19/18]

[Published 8/15/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/15/18.



EXECUTIVE ORDER NUMBER THREE

WHEREAS, the overall health of Iowa's rural communities is vital to the long-term success of this State; and

WHEREAS, in order for rural Iowa to thrive, it must be an attractive target for investment by the private sector, and the public sector must be a wise investment partner by effectively utilizing its limited resources; and

WHEREAS, in order for rural Iowa to keep its talented individuals and bring Iowans back home, local leadership must be effectively developed, must strategically plan, and must set a vision to make Iowa an attractive place for people to live and work; and

WHEREAS, broadband connectivity is essential for nearly every aspect of life today – for business, for education, and for agriculture, to name a few – so we must ensure that rural Iowa is fully connected to the world:

NOW, THEREFORE, I, Kim Reynolds, Governor of the State of Iowa, do hereby declare the State of Iowa will be well-served by taking a new, innovative approach to addressing the needs and desires of its rural residents by establishing "The Governor's Empower Rural Iowa Initiative."

SECTION ONE: Purpose.

- I. The Governor's Empower Rural Iowa Initiative is tasked with finding concrete solutions to the unique challenges and opportunities that exist in rural Iowa.
- II. The Governor's Empower Rural Iowa Initiative will identify legislative, regulatory, and policy ideas designed to increase opportunities and quality of life throughout rural Iowa by encouraging investment, by working to maintain and grow the population of rural communities and develop the next generation of leadership, and by boosting efforts to facilitate high-speed internet connectivity across and within rural areas in Iowa.

SECTION TWO: Organization and Operation.

- I. The Governor's Empower Rural Iowa Initiative will partner with the Iowa Rural Development Council to carry out the the Initiative. The Honorary Co-Chairs of the Governor's Empower Rural Iowa Initiative will be the Chair of the Iowa Rural Development Council and the Lieutenant Governor.
- II. The Governor's Empower Rural Iowa Initiative and the Iowa Rural Development Council will create three subject matter task forces, each of which will be chaired by the Chair of the Iowa Rural Development Council and the Lieutenant Governor:
 - A. **The Investing in Rural Iowa Task Force.** The Investing in Rural Iowa Task Force will review existing state policies and programs related to rural investment, and will assess

those policies' and programs' impact upon rural Iowa. The Investing in Rural Iowa Task Force will likewise propose changes to any existing state policies and programs so reviewed, or propose new policies and programs designed to encourage new or expanded investment in rural Iowa. The Investing in Iowa Task Force will consider a wide range of potential policy matters, including, but not limited to, ways to create or strengthen partnerships with persons or organizations to fully leverage existing efforts directed towards rural investment, methods to bring additional resources to rural Iowa or to maximize the use of limited resources already existing, and policies designed to meet the State's rural housing needs.

- B. The Growing Rural Iowa Task Force.** The Growing Rural Iowa Task Force will consider ideas, policies, or initiatives designed to encourage and develop the next generation of leadership for rural communities, and to encourage community strategic planning. The Growing Rural Iowa Task Force may also consider initiatives impacting rural quality of life, strategies for retaining talent in rural communities, and bringing back former Iowans.
- C. The Connecting Rural Iowa Task Force.** The Connecting Rural Iowa Task Force will review existing state policies and programs related to broadband connectivity in rural Iowa, and will assess those policies' and programs' impact on rural Iowa. The Connecting Rural Iowa Task Force will likewise propose changes to any existing state policies and programs so reviewed, or propose new policies and programs designed to encourage increased broadband connectivity throughout rural Iowa. The Connecting Rural Iowa Task Force will consider a wide range of potential policy matters, including, but not limited to, ways to encourage broadband buildouts through the State, methods aimed at addressing any regulatory barriers or funding stream issues pertaining to broadband connectivity in rural Iowa, and policies and strategies designed to encourage partnerships among broadband providers to meet the connectivity needs and demands of rural Iowans.
- III.** Each task force of the Governor's Empower Rural Iowa Initiative will consist of at least 22 members. Members will be selected by the Governor, five of which will be recommended by the Iowa Rural Development Council, from its membership. The ex-officio members will be the Chair of the Iowa Rural Development Council, the Lieutenant Governor, the Secretary of Agriculture, two members of the Iowa Senate (one from the majority party and one from the minority party) and two members of the Iowa House of Representatives (one from the majority party and one from the minority party). Members will serve staggered, two-year terms. Each member will serve at the pleasure of the Governor and will serve without compensation and in an advisory capacity.
- IV.** The Governor's Empower Rural Iowa Initiative will be led by an Executive Committee consisting of the co-chairs and three representatives from each task force, to be named by the Governor.
- V.** Each subject matter task force of The Governor's Empower Rural Iowa Initiative will meet to host "Ideas Summits" in locations throughout rural Iowa in the year 2018. Each Ideas Summit will address matters within or across the scope of the subject matter task force(s) holding the event. Participants in each Ideas Summit will be the members of the subject matter task force in question, and may also include residents of rural Iowa, persons or organizations interested in rural Iowa issues, or other persons, experts, or organizations interested in the subject matters to be discussed.
- VI.** Each subject matter task force will prepare a report of initial recommendations, to be submitted to the Executive Committee, and the Executive Committee will submit an initial report to the Governor, no later than December 31, 2018. Each subject-matter task force will make annual recommendations thereafter.
- VII.** Each subject-matter task force of The Governor's Empower Rural Iowa Initiative herein established will coordinate and cooperate with one another from time to time as necessary or appropriate to effectuate the purposes of this Executive Order.

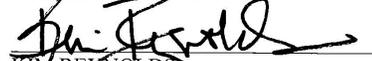
- VIII. Staffing and administrative assistance for The Governor's Empower Rural Iowa Initiative, and each subject-matter task force established herein, will be provided through the shared efforts of the Office of the Governor, the Iowa Economic Development Authority, the Iowa Rural Development Council, and by other persons or organizations from time to time as necessary or appropriate.

SECTION THREE: Miscellaneous.

- I. All departments, agencies, boards, or other political subdivisions of state and local governments will cooperate fully with The Governor's Empower Rural Iowa Initiative to the extent required by law. The Governor's Empower Rural Iowa Initiative may seek the expertise and services of individuals and entities outside of its membership for research, advice, and other needs as necessary or appropriate to accomplish its mission.
- II. All work of The Governor's Empower Iowa Initiative will be done in a manner consistent with the laws and regulations of the State of Iowa, and of the laws and regulations of the United States of America.
- III. This Executive Order will be interpreted in accordance with all applicable laws and regulations. If any provision of this Executive Order is found to be invalid, unenforceable, or otherwise contrary to applicable law, then the remaining provisions of this Executive Order, as applied to any person or circumstance, will continue in full force and effect and will not be affected by such finding of invalidity or unenforceability. This Executive Order is not intended to supersede any laws, regulations, or collective bargaining agreements in place as of its effective date.
- IV. This Executive Order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the State of Iowa, its departments, agencies, or political subdivisions, or its officers, employees, agents, or any other persons.
- V. The directive in this Executive Order will only apply prospectively of its effective date.



IN TESTIMONY WHEREOF, I HAVE
HEREUNTO SUBSCRIBED MY NAME
AND CAUSED THE GREAT SEAL OF
THE STATE OF IOWA TO BE AFFIXED
TO THI EXECUTIVE ORDER. DONE AT
DES MOINES THIS 18TH DAY OF JULY
IN THE YEAR OF OUR LORD TWO
THOUSAND EIGHTEEN.


KIM REYNOLDS
GOVERNOR OF IOWA

ATTEST:

PAUL D. PATE
SECRETARY OF STATE