



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 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>
7	Friday, September 7, 2018	September 26, 2018
8	Friday, September 21, 2018	October 10, 2018
9	Friday, October 5, 2018	October 24, 2018

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, September 11, 2018, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

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 Notice **ARC 3937C** 8/15/18
Procurement—certification of targeted small businesses, 117.2, 117.5(2) Notice **ARC 3966C** 8/29/18

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COMMERCE DEPARTMENT[181]“umbrella”
Organizational structure of the division, 1.3 Notice **ARC 3947C** 8/15/18
Application procedures, amendments to ch 2 Notice **ARC 3949C** 8/15/18
Public records and fair information practices, amendments to ch 7 Notice **ARC 3948C** 8/15/18
General banking powers, 8.8, 8.9 Notice **ARC 3952C** 8/15/18
Real estate lending; leasing, 9.2, 9.3 Notice **ARC 3953C** 8/15/18
Contested cases, amendments to ch 11 Notice **ARC 3951C** 8/15/18
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Debt management, ch 20 Notice **ARC 3954C** 8/15/18

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EDUCATION DEPARTMENT[281]“umbrella”
All Iowa opportunity scholarship program, 8.2, 8.4(2) Notice **ARC 3938C** 8/15/18
Iowa national guard educational assistance program—application requirements, 20.1(2)
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Rural Iowa advanced registered nurse practitioner and physician assistant loan repayment
program, amendments to ch 25 Notice **ARC 3941C** 8/15/18
Health care loan repayment program, ch 26 Notice **ARC 3939C** 8/15/18

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”
Overpayment, 1.1 Filed **ARC 3963C** 8/15/18
Unauthorized practice by dental hygienist; public health supervision; name and address
changes; use of silver diamine fluoride, 10.4 to 10.6, 16.2(2) Filed **ARC 3987C** 8/29/18
Graduates of foreign dental schools—licensure, 11.4 Filed **ARC 3961C** 8/15/18

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”
Expiration date of licenses, 13.6, 13.30, 18.4, 23.2, 27.2 Filed **ARC 3979C** 8/29/18

EDUCATION DEPARTMENT[281]

Accreditation standards—statewide summative assessment, policy prohibiting the aiding and
abetting of sexual abuse, 12.3(14), 12.8(1)“h” Filed **ARC 3980C** 8/29/18
Iowa learning online—provision of distance education to students receiving private
instruction, 15.10, 15.12 to 15.15 Filed **ARC 3981C** 8/29/18
Community colleges—career and technical general education credits, transfer major
programs, developmental education, 21.2 to 21.4 Filed **ARC 3982C** 8/29/18

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

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Review of rules—administration, licensure, professional development, discipline, peer
review, surveying, amendments to chs 1, 3 to 5, 7 to 12 Notice **ARC 3946C** 8/15/18

HUMAN SERVICES DEPARTMENT[441]

Mental health and disability services regions, amendments to ch 25 Notice **ARC 3942C** 8/15/18
Support enforcement services, amendments to ch 98 Notice **ARC 3972C** 8/29/18
Children’s residential facilities—abuse reporting, 106.19 Notice **ARC 3971C** 8/29/18
Child care providers—mandatory prohibitions, additional background checks, amendments
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Child care assistance rate ceilings, 170.4 Notice **ARC 3969C** 8/29/18

IOWA FINANCE AUTHORITY[265]

Manufactured housing program fund, ch 45 Notice **ARC 3973C** 8/29/18

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Federal occupational safety and health standards for exposure to beryllium—adoption by reference, 10.20 Notice **ARC 3955C**..... 8/15/18**NATURAL RESOURCE COMMISSION[571]**

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Snowmobile fee grants, cost-share programs, and contracts, adopt 47.10; rescind 47.30 to 47.47 Filed **ARC 3983C**..... 8/29/18**PHARMACY BOARD[657]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Board membership and responsibilities, amendments to ch 1 Notice **ARC 3977C**..... 8/29/18Universal practice standards—protection from exposure to hazardous drugs, 8.5 Notice **ARC 3978C**..... 8/29/18Temporary scheduling of fentanyl-related products as Schedule I controlled substances, 10.39(2) Filed **ARC 3984C**..... 8/29/18Wholesale distributor licenses, ch 17 Notice **ARC 3974C**..... 8/29/18Substitution of interchangeable biological products; labeling requirements, 18.3(4), 22.1(3), 22.5(5) Filed **ARC 3985C**..... 8/29/18Limited distributor licenses, ch 42 Notice **ARC 3975C**..... 8/29/18Third-party logistics provider licenses, ch 43 Notice **ARC 3976C**..... 8/29/18**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Chiropractic physicians—license reactivation, 41.14(3)“b”(3) Notice **ARC 3943C**..... 8/15/18Chiropractic physicians—colleges, continuing education, 42.2(2), 42.5(1), 42.6, 44.1, 44.2, 44.3(2) Filed **ARC 3962C**..... 8/15/18Chiropractic physicians—practice, discipline, 43.3, 43.4(2), 43.10, 45.2 Filed **ARC 3956C**..... 8/15/18Physical therapists and physical therapist assistants—licensure compact, criminal history background check, 200.2, 200.3, 200.7(1) Notice **ARC 3944C**..... 8/15/18**REGENTS BOARD[681]**PharmD application fee, 1.7 Filed **ARC 3986C**..... 8/29/18**SOIL CONSERVATION AND WATER QUALITY DIVISION[27]**

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]“umbrella”

Water quality initiative—eligible practices, cost-share limitation, amendments to ch 16 Filed **ARC 3957C**..... 8/15/18**TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]**Purchasing—ICN sole-source agreements, 5.1 Filed **ARC 3958C**..... 8/15/18Authorized use and users—state communications, 7.1 Filed **ARC 3959C**..... 8/15/18**TRANSPORTATION DEPARTMENT[761]**Sanctions, amendments to ch 615 Notice **ARC 3967C**..... 8/29/18**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]**Veterans trust fund, 14.4 Notice **ARC 3936C**..... 8/15/18**VETERINARY MEDICINE BOARD[811]**Veterinary technician state examination—fee, 8.3(1) Filed **ARC 3960C**..... 8/15/18**WORKERS’ COMPENSATION DIVISION[876]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Electronic filing, amendments to chs 2 to 5, 10, 11 Notice **ARC 3968C**..... 8/29/18**WORKFORCE DEVELOPMENT DEPARTMENT[871]**Benefits; voluntary shared work, amendments to chs 23 to 25 Notice **ARC 3965C**..... 8/29/18Reemployment services eligibility assessment procedure; overpayments, 24.6(7)“f,” 25.8(1) Notice **ARC 3945C**..... 8/15/18

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Jim Carlin
43 Arlington Road
Sioux City, Iowa 51106

Senator Mark Chelgren
819 Hutchinson
Ottumwa, Iowa 52501

Senator Mark Costello
37265 Rains Avenue
Imogene, Iowa 51645

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

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Mt. Auburn, Iowa 52313

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Oskaloosa, Iowa 52577

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

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**

Conference Room 5, A Level
Hoover State Office Bldg.
Des Moines, Iowa

September 5, 2018
11 a.m. to 12 noon

Procurement—certification of targeted small businesses, 117.2, 117.5(2)
IAB 8/29/18 **ARC 3966C**

Conference Room 4, A Level
Hoover State Office Bldg.
Des Moines, Iowa

September 18, 2018
10 to 11 a.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.

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)

PHARMACY BOARD[657]

Wholesale distributor licenses, ch 17
IAB 8/29/18 **ARC 3974C**

Shared Conference Room, Suite E
400 S.W. 8th St.
Des Moines, Iowa

September 25, 2018
9 a.m.

Limited distributor licenses, ch 42
IAB 8/29/18 **ARC 3975C**

Shared Conference Room, Suite E
400 S.W. 8th St.
Des Moines, Iowa

September 25, 2018
9 a.m.

Third-party logistics provider licenses, ch 43
IAB 8/29/18 **ARC 3976C**

Shared Conference Room, Suite E
400 S.W. 8th St.
Des Moines, Iowa

September 25, 2018
9 a.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.

TRANSPORTATION DEPARTMENT[761]

Sanctions, amendments to ch 615
IAB 8/29/18 **ARC 3967C**

Department of Transportation
Motor Vehicle Division
6310 SE Convenience Blvd.
Ankeny, Iowa

September 20, 2018
10 a.m.
(If requested)

The following list will be updated as changes occur.

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

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

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

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FLOOD MITIGATION ASSISTANCE (FMA) 2018

AGENCY	PROGRAM	ELIGIBLE APPLICANTS	TYPES OF PROJECTS
<p>Iowa Homeland Security and Emergency Management Department (HSEMD)</p>	<p>Flood Mitigation Assistance Competitive (FMA) Grant for Fiscal Year (FY) 2018 Authorized by §203 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act), 42 U.S.C. 5133, as amended by §102 of the Disaster Mitigation Act of 2000 (DMA). The FMA program seeks to reduce damages and the loss of life and property from natural hazards through the development and implementation of mitigation actions.</p>	<ul style="list-style-type: none"> ● State Agencies and Local Governments. ● Federally recognized Indian Tribal governments, to include state recognized Indian Tribes, and Authorized Tribal Organizations. ● Private non-profit organizations are not eligible to apply as sub-applicants; however, they may request a local government to submit an application for their proposed activity on their behalf. ● All applicants must be participating in the NFIP if they have been identified as having a Special Flood Hazard Area. The Community must not be on probation, suspended or withdrawn from the NFIP. ● All Applicants for a project grant MUST have a FEMA-approved local hazard mitigation plan. <p>To learn more about the FMA program, use the following link on HSEMD's website: www.fema.gov/hazard-mitigation-assistance</p> <p>Applicants must complete an application through the Electronic Grant (e-Grants) System. Applications must be submitted for State review via e-grants by December 31, 2018. To learn more about the e-grant system use the following link on HSEMD's website:</p> <p style="text-align: center;">portal.fema.gov/famsVuWeb/home</p> <p>For additional information please contact:</p> <p style="text-align: center;">Aimee Bartlett 515-725-9364 Dan Schmitz 515-725-9369</p> <p style="text-align: center;">Iowa Homeland Security and Emergency Management Department 7900 Hickman Road; Suite 500 Windsor Heights, IA 50324</p> <p style="text-align: center;">TECHNICAL ASSISTANCE HELP DESK: Phone: (866) 222-3580 (toll free) E-mail: enghelpline@dhs.gov bchelpline@dhs.gov ehhelpline@dhs.gov</p>	<p>Eligible Project Activities</p> <p>Mitigation projects must focus on natural hazards. Examples include (but not limited to):</p> <ul style="list-style-type: none"> ● Acquisition or relocation of hazard-prone property for conversion to open space in perpetuity; ● Structural and non-structural retrofitting (e.g., storm shutters, hurricane clips, bracing systems) of existing structures to meet or exceed applicable building codes relative to hazard mitigation; ● Hydrologic and hydraulic studies/analyses, engineering studies, and drainage studies for the purpose of project design and feasibility in conjunction with a project. ● Protective measures for utilities; water and sanitary sewer systems and/or infrastructure; ● Storm water management projects (e.g., culverts, floodgates, retention basins) to reduce or eliminate long-term risk from flood hazards; and ● Localized flood control projects, such as certain ring levees and floodwall systems, that are designed specifically to protect critical facilities and do not constitute a section of a larger flood control system. <p>Planning Application</p> <p>The outcome of a mitigation planning grant award must be a FEMA-approved hazard mitigation plan that complies with the requirements of 44 CFR Part 201. The planning grant deliverable can be a new hazard mitigation plan or an update of an already FEMA-approved hazard mitigation plan.</p> <p>PROJECT TECHNICAL ASSISTANCE:</p> <p>Technical assistance for Engineering Feasibility, Benefit-Cost Analysis and Environmental/Historic Preservation compliance is available through FEMA.</p>

PRE-DISASTER MITIGATION (PDM) 2018

AGENCY	PROGRAM	ELIGIBLE APPLICANTS	TYPES OF PROJECTS
<p>Iowa Homeland Security and Emergency Management Department (HSEMD)</p>	<p>Pre-Disaster Mitigation Competitive (PDM) Grant for Fiscal Year (FY) 2018 Authorized by §203 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act), 42 U.S.C. 5133, as amended by §102 of the Disaster Mitigation Act of 2000 (DMA).</p> <p>The PDM program seeks to reduce damages and the loss of life and property from natural hazards through the development and implementation of mitigation actions.</p>	<ul style="list-style-type: none"> • State Agencies and Local Governments. • Federally recognized Indian Tribal governments, to include state recognized Indian Tribes, and Authorized Tribal Organizations. • Private non-profit organizations are not eligible to apply as sub-applicants; however, they may request a local government to submit an application for their proposed activity on their behalf. • All applicants must be participating in the NFIP if they have been identified as having a Special Flood Hazard Area. The Community must not be on probation, suspended or withdrawn from the NFIP. • All applicants for a project grant MUST have a FEMA-approved local hazard mitigation plan. <p>To learn more about the PDM program, use the following link on HSEMD's website: www.fema.gov/hazard-mitigation-assistance</p> <p>Applicants must complete an application through the Electronic Grant (e-Grants) System. Applications must be submitted for State review via e-grants by December 31, 2018. To learn more about the e-grant system use the following link on HSEMD's website:</p> <p style="text-align: center;">portal.fema.gov/famsVuWeb/home</p> <p>For additional information please contact:</p> <p style="text-align: center;">Aimee Bartlett 515-725-9364 Dan Schmitz 515-725-9369</p> <p style="text-align: center;">Iowa Homeland Security and Emergency Management Department 7900 Hickman Road; Suite 500 Windsor Heights, IA 50324</p> <p style="text-align: center;">TECHNICAL ASSISTANCE HELP DESK: Phone: (866) 222-3580 (toll free) E-mail: enghelpline@dhs.gov bchelpline@dhs.gov ehhelpline@dhs.gov</p>	<p>Eligible Project Activities</p> <p>Mitigation projects must focus on natural hazards. Examples include (but not limited to):</p> <ul style="list-style-type: none"> • Acquisition or relocation of hazard-prone property for conversion to open space in perpetuity; • Construction of safe rooms (tornado and severe wind shelters); • Structural and non-structural retrofitting (e.g., storm shutters, hurricane clips, bracing systems) of existing structures to meet or exceed applicable building codes relative to hazard mitigation; • Hydrologic and hydraulic studies/analyses, engineering studies, and drainage studies for the purpose of project design and feasibility in conjunction with a project; • Protective measures for utilities; water and sanitary sewer systems and/or infrastructure; • Storm water management projects (e.g., culverts, floodgates, retention basins) to reduce or eliminate long-term risk from flood hazards; and • Localized flood control projects, such as certain ring levees and floodwall systems, that are designed specifically to protect critical facilities and do not constitute a section of a larger flood control system. <p>Planning Application</p> <p>The outcome of a mitigation planning grant award must be a FEMA-approved hazard mitigation plan that complies with the requirements of 44 CFR Part 201. The planning grant deliverable can be a new hazard mitigation plan or an update of an already FEMA-approved hazard mitigation plan.</p> <p>PROJECT TECHNICAL ASSISTANCE:</p> <p>Technical assistance for Engineering Feasibility, Benefit-Cost Analysis and Environmental/ Historic Preservation compliance is available through FEMA.</p>

ARC 3966C**ADMINISTRATIVE SERVICES DEPARTMENT[11]****Notice of Intended Action****Proposing rule making related to targeted small businesses and providing an opportunity for public comment**

The Department of Administrative Services hereby proposes to amend Chapter 117, “Procurement of Goods and Services of General Use,” 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 section 8A.111 and 2017 Iowa Acts, chapter 160 (House File 621).

Purpose and Summary

This proposed rule making implements changes made to Iowa Code section 8A.111(7) by 2017 Iowa Acts, chapter 160 (House File 621), which transfers responsibility for the certification of targeted small businesses from the Department of Inspections and Appeals to the Iowa Economic Development Authority. The Iowa Economic Development Authority’s administrative rules related to the certification of targeted small businesses became effective February 21, 2018. The Iowa Department of Inspections and Appeals’ rule making that rescinded rules related to the certification of targeted small businesses became effective May 30, 2018. These proposed amendments update references to certification of targeted small businesses to comport with 2017 Iowa Acts, chapter 160 (House File 621).

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 or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 18, 2018. Comments should be directed to:

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Tami Wiencek
Department of Administrative Services
Hoover State Office Building
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Phone: 515.725.2017
Fax: 515.281.6140
Email: tami.wiencek@iowa.gov

Public Hearing

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

September 18, 2018	Conference Room 4, A Level
10 to 11 a.m.	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—117.2(8A)**, definition of “Targeted small business (TSB),” as follows:
“*Targeted small business (TSB)*” means a targeted small business as defined in Iowa Code section 15.102 that is certified by the ~~department of inspections and appeals~~ economic development authority pursuant to Iowa Code section ~~40A.104~~ 15.108 and as authorized by Iowa Code chapter 73.

ITEM 2. Amend subrule 117.5(2) as follows:

117.5(2) *Targeted small business (TSB) procurement.*

a. Justification for TSB procurement. Agencies may purchase from a TSB without competition for a purchase up to \$10,000.

b. Special procedures for TSB procurements. Agencies must confirm that the vendor is certified as a TSB by the ~~department of inspections and appeals~~ economic development authority. An agency may contact the TSB directly.

ARC 3972C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to child and medical support and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 98, “Support Enforcement Services,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 252D and 252E and 45 CFR §303.31.

Purpose and Summary

These proposed amendments conform Division I of Chapter 98 and rule 441—98.39(252D,252E) with recent changes to 45 CFR §303.31 (Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs Final Rule, effective January 19, 2017) and Iowa Code chapter 252E. The Final Rule and statutory changes require consideration of public and private health care coverage when determining medical support. The majority of these amendments are intended to update language in the rules to match the recently changed language in Iowa Code chapter 252E.

These proposed amendments also amend the chapter’s Division II regarding the criteria and procedures for amending the amount to be withheld from the obligor’s income to pay a child support delinquency when such amount is based on the hardship criterion. The amendments will expand the time frame when an obligor may request an amendment of the amount to be withheld from the obligor’s income due to hardship, allow the Child Support Recovery Unit (CSRU) to periodically review the amount withheld as payment toward a delinquency when such amount was granted on the grounds of hardship, increase the minimum amended amount to be withheld from \$5 to \$15, and clarify that the hardship criterion may only be applied to cases where only a delinquency is due.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 18, 2018. Comments should be directed to:

HUMAN SERVICES DEPARTMENT[441](cont'd)

Harry Rossander
 Bureau of Policy Coordination
 Department of Human Services
 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 rule 441—98.1(252E) as follows:

441—98.1(252E) Definitions.

~~“Medical support” means either the provision of a health benefit plan, including a group or employment related or an individual health benefit plan, or a health benefit plan provided pursuant to Iowa Code chapter 514E to meet the medical needs of a dependent and the cost of any premium required by a health benefit plan, care coverage or the payment to the obligee of a monetary amount in lieu of a health benefit plan, either of which is an obligation separate from any monetary amount of child support ordered to be paid of cash medical support. Medical support is not alimony.~~

~~“Obligee” means a custodial parent or other natural person legally entitled to receive a support payment on behalf of a child.~~

~~“Obligor” means a noncustodial parent or other natural person legally responsible for the support of a dependent.~~

~~“Reasonable in cost” means that a health insurance is employment-related or other group health insurance regardless of the service-delivery mechanism.~~

ITEM 2. Amend rule 441—98.2(252E) as follows:

441—98.2(252E) Provision of services. ~~The child support recovery unit shall provide medical support enforcement services to public assistance and nonpublic assistance recipients of Medicaid for whom an assignment of support is in effect and shall provide these services to nonpublic assistance recipients upon their request child support services.~~

~~**98.2(1) Nonpublic assistance recipients.**~~

~~a. — Applicants for nonpublic assistance services shall be informed of the availability of medical support enforcement services at the time of application and shall be asked about their desire to receive these services on Form CS-3103-0, Application for Non-Assistance Support Enforcement Service. Applicants who do not desire medical support enforcement services at the time of application may~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~request these services in writing at a later date by completing Form 470-2744, Nonpublic Assistance Medical Support Request.~~

~~*b.*—The child support recovery unit shall inform recipients of nonpublic assistance services whose application forms did not contain notice of medical support enforcement services of the availability of these services in writing on Form 470-2744 prior to establishing or enforcing medical support, and shall not provide these services unless a written request is received.~~

~~**98.2(2) Public assistance recipients.** Unless good cause has been established, recipients of Medicaid public assistance are required to cooperate with the child support recovery unit as a condition of eligibility as prescribed in rule 441—75.14(249A). This includes ~~completing and signing Form 470-2748, Public Assistance Medical Support Request, upon request of the child support recovery unit.~~~~

ITEM 3. Rescind and reserve rule ~~441—~~**98.3(252E)**.

ITEM 4. Rescind and reserve rule ~~441—~~**98.4(252E)**.

ITEM 5. Amend subrule 98.5(1) as follows:

98.5(1) Information from an employer. The unit shall gather information concerning a health benefit plan an employer may offer an obligor as follows:

a. The unit ~~shall~~ may send Form ~~470-0177~~ 470-0177M, Employment and Health Insurance Questionnaire, ~~or Form 470-2240, Employer Health Insurance Questionnaire~~, whenever a potential employer is identified.

b. The unit shall secure ~~medical support~~ information about health care coverage from a known employer on Form 470-2743, Employer Medical Support Information, when Form 470-3818, National Medical Support Notice, or an order has been forwarded to the employer pursuant to Iowa Code section 252E.4.

ITEM 6. Amend subrule 98.5(3) as follows:

98.5(3) Disposition of information. The unit shall provide the information:

a. To the Medicaid agency and to the obligee, when requested, when the dependent is a recipient of Medicaid.

b. To the obligee, when requested, when the dependent is not a recipient of Medicaid.

ITEM 7. Amend subrule 98.7(2) as follows:

98.7(2) Health benefit plan or insurance care coverage.

a. If an obligor was ordered to provide a health ~~benefit plan or insurance~~ care coverage under an order, but did not comply with the order, the child support recovery unit may implement the order by forwarding to the employer a copy of the order, an ex parte order as provided in Iowa Code section 252E.4, or Form 470-3818, National Medical Support Notice.

b. No change.

ITEM 8. Amend subrule 98.7(3) as follows:

98.7(3) Termination of employment. When the child support recovery unit receives information indicating the obligor's employment has terminated, the unit shall secure the status of the health benefit plan by sending Form 470-3218, Employer Insurance Notification, to the employer.

If no response is received within 30 days of sending Form 470-3218, the unit shall send a second request on Form 470-3219, Employer Insurance Second Notification, to the employer. ~~If the obligor does not notify the unit, or no response is received from the employer within 90 days of sending Form 470-3218, the unit shall notify the obligee that the health benefit plan may have terminated.~~

ITEM 9. Amend subrule 98.8(2) as follows:

98.8(2) Informal conference.

a. The obligor shall be entitled to only one informal conference for each new employer to which the unit has forwarded Form 470-3818, National Medical Support Notice, or order under Iowa Code section 252E.4 to enforce medical support.

b. No change.

c. The issues to be reviewed at the conference shall be as follows:

HUMAN SERVICES DEPARTMENT[441](cont'd)

- (1) No change.
- (2) Whether the obligor is already providing health ~~benefit plan~~ care coverage for the dependent.
- (3) Whether the availability of dependent health care coverage ~~under a health benefit plan~~ is in error.
- (4) Whether the obligor was ordered to provide a health ~~benefit plan~~ care coverage under the support order.

d. The results in an informal conference shall in no way affect the right of the obligor to file a motion to quash the order under Iowa Code section ~~252E.4~~ 252E.6A.

ITEM 10. Amend rule 441—98.24(252D) as follows:

441—98.24(252D) Amount of withholding. The child support recovery unit shall determine the amount to be withheld by the employer or other income providers as follows:

98.24(1) Current support obligation exists. When a current support obligation exists, the amount withheld shall be an amount equal to the current support obligation, and an additional amount equal to ~~50~~ 20 percent of the current support obligation to be applied toward the liquidation of any delinquency. However, the amount withheld to be applied toward the liquidation of any delinquency shall be 50 percent of the current support obligation for any support order entered or modified prior to July 1, 1998, and for which an income withholding order has been filed by the Iowa child support recovery unit prior to July 1, 1998.

~~Effective July 1, 1998, the amount withheld to be applied toward the liquidation of any delinquency shall be 20 percent of the current support obligation for any support order entered or modified on or after July 1, 1998, or for any support order entered or modified prior to July 1, 1998, for which no income withholding order has been filed by an Iowa CSRU prior to July 1, 1998.~~

~~*a.* The obligor may request a modification of the amount withheld as payment toward the arrearage or reimbursement on the grounds of hardship. The procedure for this request is described in rule 98.43(252D). Hardship exists if the obligor's income is 200 percent or less than poverty level for one person as defined by the United States Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981.~~

~~*b.* If hardship is claimed by the obligor, the child support recovery unit may verify income from:~~

- ~~(1) The employer or other income provider of the obligor.~~
- ~~(2) The obligor.~~
- ~~(3) The state employment security agency.~~
- ~~(4) Other records available in accordance with Iowa Code section 252B.9.~~

~~*c.* If the hardship criteria are met, the amount withheld as payment toward the arrears may be modified as follows:~~

~~(1) The obligor's gross yearly income shall be divided by 200 percent of the established yearly gross poverty level income for one person. That amount shall be multiplied by .5. The resulting figure will be the percent of the current support order which shall be withheld for payment on the arrearage.~~

~~(2) The amount withheld on the arrearage shall not be less than \$5 per month.~~

~~(3) If criteria for withholding 20 percent toward liquidation of any delinquency are also met, the lesser of 20 percent or hardship is to be withheld.~~

98.24(2) Current obligation ended. When the current support obligation has ended or has been suspended, the income withholding order shall remain in effect until any delinquency has been satisfied. The amount withheld shall be equal to the amount of the most recent prior current support obligation which is greater than zero. ~~Hardship criteria shall be applied in accordance with subrule 98.24(1).~~ However, in the following circumstances, the amount withheld shall be 20 percent of the amount owed for current support at the time the obligation ended or was suspended; ~~and, if hardship criteria are met, this amount shall be one half of the amount established under the guidelines in subrule 98.24(1):~~

~~*a.* to *d.* No change.~~

98.24(3) No support ordered. When there is no current child support ordered and the obligation is solely the result of a judgment which does not specify a repayment schedule, the unit shall establish the amount to be withheld per month as follows:

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~a. Initially the withholding amount shall be set at the amount for one person from the ADC FIP schedule of basic needs. Hardship may be asserted as set out in subrule 98.24(1).~~

~~b. If hardship criteria are met in these circumstances, the amount withheld on reimbursement shall be determined by dividing the obligor's gross yearly income by 200 percent of the poverty level income for one person. The resulting number is the percent of the existing withholding amount that will now be withheld. This amount will be reduced by one-half if the obligor has legal custody of the child.~~

98.24(4) No change.

~~**98.24(5) Disability continues.** If hardship criteria under paragraph 98.43(2) "e" are met and the amount withheld as payment toward the arrears is modified, the obligor is deemed to continue to meet the hardship criteria for the duration of the social security disability benefits or supplemental security income disability benefits. If those benefits have not ended, but the amount to withhold would otherwise be amended under this rule and under rule 441—98.45(252D), the unit shall determine the amount to withhold for payment toward arrears under this rule by using the same percent as was used when the hardship amount was first determined under paragraph 98.43(2) "e," but the amount shall not be less than \$5 per month.~~

ITEM 11. Adopt the following new rule 441—98.25(252D):

441—98.25(252D) Amendment of amount of withholding due to hardship.

98.25(1) Request for amendment. If subrule 98.24(2) or 98.24(3) applies, the obligor may request at any time an amendment of the amount withheld as payment toward the delinquency or reimbursement on the grounds of hardship. The obligor must submit the request in writing to the child support recovery unit.

98.25(2) Hardship criterion. Hardship exists if the obligor's income is equal to or less than 200 percent of the poverty level for one person according to the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2).

a. If hardship is claimed by the obligor, the child support recovery unit may verify income from:

- (1) The employer or other income provider of the obligor.
- (2) The obligor.
- (3) The state employment security agency.
- (4) Other records available in accordance with Iowa Code section 252B.9.

b. If the hardship criterion is met, the amount withheld as payment toward the delinquency may be amended as follows:

(1) The obligor's gross yearly income shall be divided by 200 percent of the established yearly gross poverty level income for one person. That amount shall be multiplied by .5. The resulting figure shall be multiplied by the most recent prior current support obligation or the amount determined pursuant to subrule 98.24(3), as applicable, to determine the amended amount. Notwithstanding this calculation, the amended amount shall not be less than \$15 per month.

(2) If criteria for withholding 20 percent toward liquidation of any delinquency are also met, the lesser of 20 percent or the amended amount determined in subparagraph 98.25(2) "b"(1) is to be withheld.

98.25(3) Hardship period. If the hardship criterion in subrule 98.25(2) is met, the child support recovery unit will grant the amended amount of withholding for a period of two years, subject to the provisions of subrule 98.25(6). However, if the obligor is receiving social security disability benefits, social security retirement benefits, or supplemental security income disability benefits, the obligor is deemed to continue to meet the hardship criterion for the duration of those benefits.

98.25(4) Denying requests. A hardship request may be denied if:

a. The criterion in subrule 98.25(2) is not met.

b. The obligor has been granted an amended amount of withholding based on this rule within the last two years and that hardship period will not expire in less than 30 days.

c. The obligor's previous hardship period expired within the last six months and, within 30 days prior to the expiration date of the previous hardship period, the obligor did not submit the following to the child support recovery unit:

HUMAN SERVICES DEPARTMENT[441](cont'd)

- (1) A written request for hardship; or
- (2) Verification of the obligor's income, and the child support recovery unit was not able to verify the obligor's income as described in paragraph 98.25(2) "a."

98.25(5) Notice requirements. The child support recovery unit will provide written notification to the obligor of the result of the hardship request.

a. When a hardship request is granted, the written notification will include the amended amount of withholding and the date the hardship period will expire.

b. When a hardship request is denied, the written notification will include the reason for denial.

98.25(6) Termination of hardship prior to expiration date. The hardship period will automatically end, regardless of expiration date, if any of the following occurs:

a. A current support obligation is added to the support order.

b. The current support obligation was previously suspended and is reinstated.

c. The delinquency has been paid in full.

d. The obligor was receiving social security disability benefits, social security retirement benefits, or supplemental security income disability benefits at the time the hardship request was granted, and the child support recovery unit has verified that the obligor is no longer receiving social security disability benefits, social security retirement benefits, or supplemental security income disability benefits.

ITEM 12. Adopt the following new rule 441—98.26(252D):

441—98.26(252D) Additional information about hardship. The child support recovery unit shall make reasonable efforts within 13 months after January 1, 2019, to identify and incrementally notify obligors who may be impacted by the changes to hardship procedures in rule 441—98.25(252D).

ITEM 13. Adopt the following new implementation sentence for **441—Chapter 98, Division II, Part A:**

These rules are intended to implement Iowa Code chapter 252D.

ITEM 14. Amend subrule 98.32(1) as follows:

98.32(1) Good cause exists. Good cause is found to exist by the court or the child support recovery unit. For purposes of this rule, "good cause" is defined as the posting of a secured bond by the obligor sufficient to pay all current and future child support obligations, including any ~~arrears~~ delinquency which may accrue.

ITEM 15. Rescind and reserve rule **441—98.35(252D)**.

ITEM 16. Amend rule 441—98.39(252D,252E) as follows:

441—98.39(252D,252E) Provisions for medical support. An income withholding order or notice of income withholding may also include provisions for enforcement of medical support when medical support is included in the support order. The income withholding order or notice of income withholding may require implementation of dependent ~~coverage under a health benefit plan~~ care coverage pursuant to Iowa Code chapter 252E or the withholding of a dollar amount for medical support. Amounts withheld for medical support shall be determined in the same manner as amounts withheld for child support.

ITEM 17. Amend subrule 98.40(2) as follows:

98.40(2) Disposable income ~~shall mean the nonexempt income of the obligor minus lawful deductions as prescribed by 42 U.S.C. Section 662(G)~~ means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld.

ITEM 18. Amend rule 441—98.41(252D) as follows:

441—98.41(252D) Multiple obligations. In the event that an obligor has more than one support obligation that is being enforced by the child support recovery unit, the unit may enter an income withholding order to enforce each obligation. The amount specified to be withheld on the ~~arrears~~ delinquency under the income withholding order or notice shall be determined in accordance with rule 441—98.24(252D).

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 19. Amend subrule 98.42(1) as follows:

98.42(1) Notice to employer. The unit may send notice to the employer or other income provider by regular mail or by electronic means in accordance with Iowa Code chapter 252D. If the unit is sending notice by regular mail, it shall send Form 470-3272, ~~Order/Notice to Withhold Income for Child Support~~ Income Withholding for Support, or a notice in the standard format prescribed by 42 U.S.C. §666(b)(6)(A). If the unit is sending the notice by electronic means, it may include notice of more than one obligor's order and need only state once provisions which are applicable to all obligors, such as the information in paragraphs ~~98.42(1) "d," "f," "g," and "i," of this subrule.~~ "i." The statement of provisions applicable to all obligors may be sent by regular mail or electronic means. The notice of income withholding shall contain information such as the following:

a. to j. No change.

ITEM 20. Amend subrule 98.42(2) as follows:

98.42(2) Notice to obligor. Form 470-2624, Initiation of Income ~~Withholding~~ Withholding/Medical Support Enforcement, shall be sent to the last-known address of the obligor by regular mail. The notice shall contain the following information:

a. to f. No change.

ITEM 21. Amend subrule 98.42(3) as follows:

98.42(3) Standard format. As provided in Iowa Code section 252D.17 ~~as amended by 1997 Iowa Acts, House File 612, section 61,~~ an order or notice of an order for income withholding shall be in a standard format prescribed by the child support recovery unit. Form 470-3272, ~~Order/Notice to Withhold Income for Child Support~~ Income Withholding for Support, is the standard format prescribed by the child support recovery unit, and the unit shall make a copy of the form available to the state court administrator and the Iowa state bar association.

ITEM 22. Amend subrule 98.43(2) as follows:

98.43(2) Informal conference.

a. No change.

b. Procedures for the informal conference are as follows:

(1) No change.

(2) The obligor may request an informal conference with the child support recovery unit if the obligor believes the withholding is in error ~~or meets the hardship criteria defined by subrule 98.24(1).~~

(3) The obligor shall request an informal conference in writing, ~~within 15 calendar days from the date of the notice of the right to an informal conference, or at any time, if a mistake of fact regarding the identity of the obligor or the amount of the delinquency is believed to have been made.~~

(4) to (7) No change.

(8) If the child support recovery unit has not complied with ~~subrule 98.24(1) rule 441—98.24(252D),~~ it shall then adjust the income withholding amount.

c. The issues to be reviewed at the conference shall be as follows:

(1) No change.

(2) For orders or notices resulting from the existence of a delinquency, whether:

1. No change.

~~2. The hardship criteria are met.~~

~~3. 2.~~ For income withholding orders or notices issued after November 1, 1990, whether the guidelines described at rule ~~441—98.24(252D)~~ were followed.

(3) No change.

d. No change.

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~e.—Notwithstanding paragraph 98.43(2)“a” and subparagraph 98.43(2)“b”(3), an obligor who has been awarded social security disability benefits or supplemental security income disability benefits under the federal Social Security Act may request an informal conference in writing at any time.~~

ITEM 23. Amend subrule 98.43(3) as follows:

98.43(3) *Income withholding issued from another state.* The child support recovery unit shall follow procedures for a motion to quash or a request for hardship or conduct an informal conference based on an income withholding order or notice issued in another state only if the unit is providing services under 441—Chapter 95.

ITEM 24. Amend subrule 98.45(6) as follows:

98.45(6) ~~*Disability ends*~~ *Implementation or termination of amended amount of withholding due to hardship.* The amount required to be withheld was based on the hardship criteria on or after September 1, 2006, and the child support recovery unit has verified that the obligor is no longer receiving social security disability benefits or supplemental security income disability benefits, unless the benefits have been changed to social security retirement benefits. The child support recovery unit has determined that the withholding order should be modified based upon the hardship provisions in rule 441—98.25(252D).

ITEM 25. Amend subrule 98.46(2) as follows:

98.46(2) *Satisfaction of amount to withhold.* No refund shall be made unless amounts have been collected which fully satisfy the amount specified in the ~~mandatory~~ income withholding order or notice for the withholding period during which income has been generated.

ITEM 26. Amend subrule 98.46(3) as follows:

98.46(3) *When issued.* Any amounts received in excess of the amounts specified in the order or notice to withhold shall be issued to the obligor within 30 days of discovery by the child support recovery unit, unless the obligor requests in writing that these amounts be credited toward the ~~arrears~~ delinquency or future child support. If there is a dispute regarding whether there is an overpayment, the obligor may request an informal conference by following the procedures set out in subparagraphs 98.43(2)“a”(3) through (7). This procedure shall not preclude the obligor from utilizing other civil remedies.

ITEM 27. Rescind and reserve rule **441—98.47(252D)**.

ARC 3971C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to children’s residential facilities and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 106, “Certification Standards for Children’s Residential Facilities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 217.6 and 2018 Iowa Acts, House File 2444.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 217.6 and 2018 Iowa Acts, House File 2444.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Purpose and Summary

This proposed amendment adds the requirement that an employee, operator, owner, or other person who performs duties for a children's residential facility shall make a report, in accordance with Iowa Code section 232.69, whenever that person reasonably believes a child for whom the person is providing care has suffered abuse.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 18, 2018. Comments should be directed to:

Harry Rossander
Bureau of Policy Coordination
Department of Human Services
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 action is proposed:

Adopt the following **new** rule 441—106.19(232):

441—106.19(232) Mandatory reporting of child abuse.

HUMAN SERVICES DEPARTMENT[441](cont'd)

106.19(1) Mandatory reporters. Any employee, operator, owner, or other person who performs duties for a children's residential facility shall make a report, in accordance with Iowa Code section 232.69, whenever that person reasonably believes a child for whom the person is providing care has suffered abuse.

106.19(2) Required training. Staff shall receive training relating to the identification and reporting of child abuse as required by Iowa Code section 232.69.

106.19(3) Training documentation. The certified children's residential facility shall develop and maintain a written record for each employee, operator, owner, or other person who performs duties for the children's residential facility in order to document the content and amount of training.

This rule is intended to implement Iowa Code section 232.69.

ARC 3970C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to child care record checks and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 109, "Child Care Centers," Chapter 110, "Child Development Homes," and Chapter 120, "Child Care Homes," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 237A.12 and 2018 Iowa Acts, House File 2444.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 237A.12; 2018 Iowa Acts, House File 2444; and 45 CFR 98.

Purpose and Summary

The Department is required by federal and state legislation to implement additional mandatory prohibitions to involvement with child care as a result of a record check. Iowa Code chapter 237A was amended by 2018 Iowa Acts, House File 2444, with an effective date of July 1, 2018. Persons convicted of specific misdemeanors and felonies will be prohibited from involvement with child care. A person will also be prohibited if the person refuses to participate in a record check evaluation or makes what the person knows to be a false statement of material fact in connection with a conviction or record check.

Persons seeking to be involved with child care may now be ineligible due to changes in prohibitions for child caretakers based on evaluation of criminal and abuse records. Parents can be assured that additional safety measures are in place through legislation to ensure children are safe in child care settings.

These proposed amendments also implement the requirement of additional background checks on persons involved with child care in accordance with federal requirements. The background check results must be received prior to the person's involvement with child care; however, a waiver is currently permitted by the federal Office of Child Care under the caveat that, at a minimum, fingerprint checks requests are submitted to the Department of Public Safety prior to the person's involvement. A child care center currently has 30 days upon staff hire before the center must submit fingerprints to the Department of Public Safety for evaluation. The proposed amendments will require fingerprint checks to be done prior to staff involvement with child care.

Fiscal Impact

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

Jobs Impact

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

Waivers

These amendments do not provide for a specific waiver authority because anyone may request a waiver of these provisions in a specified situation under the Department's general rule on exceptions at 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 18, 2018. Comments should be directed to:

Harry Rossander
 Bureau of Policy Coordination
 Department of Human Services
 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 paragraph **109.6(6)“d”** as follows:

d. National criminal history checks. National criminal history checks based on fingerprints are required for all persons subject to record checks ~~under this subrule effective with a center's initial licensure or relicensure on or after June 1, 2010.~~ The national criminal history check shall be repeated for each person every four years and when the department or center becomes aware of any new transgressions committed by that person in another state. The department is not responsible for the cost of conducting the national criminal history check.

(1) and (2) No change.

(3) The child care center shall provide fingerprints to the department of public safety ~~no later than 30 days after the subject's approval for employment at the center~~ prior to a person's involvement with child care at the center. The center shall submit the fingerprints on forms or in a manner allowed by the department of public safety.

(4) to (8) No change.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 2. Amend paragraph **109.6(6)“e”** as follows:

e. Mandatory prohibition. A person with any of the following convictions or founded abuse reports is prohibited from involvement with child care:

- (1) Founded child or dependent adult abuse that was determined to be sexual abuse.
- (2) Placement on the A requirement to be listed on any state sex offender registry or the national sex offender registry.
- (3) Felony child endangerment or neglect or abandonment of a dependent person. Any of the following felony convictions:
 1. Child endangerment or neglect or abandonment of a dependent person.
 2. Domestic abuse.
 3. Crime against a child including, but not limited to, sexual exploitation of a minor.
 4. Forcible felony.
 5. Arson.
- (4) Felony domestic abuse. A record of a misdemeanor conviction of a crime against a child that constitutes one of the following offenses:
 1. Child abuse.
 2. Child endangerment.
 3. Sexual assault.
 4. Child pornography.
- (5) Felony crime against a child including, but not limited to, sexual exploitation of a minor. If a person subject to a record check refuses to consent to a record check, the person shall be prohibited from involvement with child care.
- (6) Foreible felony. If a person has been convicted of a crime and makes what the person knows to be a false statement of material fact in connection with the conviction or record check, the person shall be prohibited from involvement with child care.

ITEM 3. Adopt the following **new** subparagraph **109.6(6)“h”(5)**:

(5) The department shall reevaluate any transgressions where a state or federal law change requires different considerations of the transgression than had been previously applied.

ITEM 4. Amend paragraph **110.11(3)“d”** as follows:

d. National criminal history record checks. Fingerprint-based checks of national criminal history records shall also be completed before a person’s involvement with child care. This requirement shall be ~~effective on or after July 1, 2013,~~ for an initial application for registration or a renewal application for registration. The national criminal history record check shall be repeated for each person subject to the check every four years and when the department or registrant becomes aware of any new transgressions committed by that person in another state. The department is responsible for the cost of conducting the national criminal history record check.

(1) to (3) No change.

ITEM 5. Amend paragraph **110.11(3)“e”** as follows:

e. Mandatory prohibition. A person with any of the following convictions or founded abuse reports is prohibited from involvement with child care:

- (1) Founded child or dependent adult abuse that was determined to be sexual abuse.
- (2) Placement on the A requirement to be listed on any state sex offender registry or the national sex offender registry.
- (3) Felony child endangerment or neglect or abandonment of a dependent person. Any of the following felony convictions:
 1. Child endangerment or neglect or abandonment of a dependent person.
 2. Domestic abuse.
 3. Crime against a child including, but not limited to, sexual exploitation of a minor.
 4. Forcible felony.
 5. Arson.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(4) ~~Felony domestic abuse.~~ A record of a misdemeanor conviction of a crime against a child that constitutes one of the following offenses:

1. Child abuse.
2. Child endangerment.
3. Sexual assault.
4. Child pornography.

(5) ~~Felony crime against a child including, but not limited to, sexual exploitation of a minor.~~ If a person subject to a record check refuses to consent to a record check, the person shall be prohibited from involvement with child care.

(6) ~~Forcible felony.~~ If a person has been convicted of a crime and makes what the person knows to be a false statement of material fact in connection with the conviction or record check, the person shall be prohibited from involvement with child care.

ITEM 6. Amend subparagraph **110.11(3)“f”(1)** as follows:

(1) A person with the following conviction or founded abuse report is prohibited from involvement with child care for five years from the date of the conviction or founded abuse report:

1. Conviction of a controlled substance offense ~~under Iowa Code chapter 124.~~
2. No change.

ITEM 7. Adopt the following **new** subparagraph **110.11(3)“h”(6)**:

(6) The department shall reevaluate any transgressions where a state or federal law change requires different considerations of the transgression than had been previously applied.

ITEM 8. Amend paragraph **120.11(3)“e”** as follows:

e. Mandatory prohibition. A person with any of the following convictions or founded abuse reports is prohibited from involvement with child care:

- (1) Founded child or dependent adult abuse that was determined to be sexual abuse.
- (2) ~~Placement on the~~ A requirement to be listed on any state sex offender registry or the national sex offender registry.
- (3) ~~Felony child endangerment or neglect or abandonment of a dependent person.~~ Any of the following felony convictions:

1. Child endangerment or neglect or abandonment of a dependent person.
2. Domestic abuse.
3. Crime against a child including, but not limited to, sexual exploitation of a minor.
4. Forcible felony.
5. Arson.

(4) ~~Felony domestic abuse.~~ A record of a misdemeanor conviction of a crime against a child that constitutes one of the following offenses:

1. Child abuse.
2. Child endangerment.
3. Sexual assault.
4. Child pornography.

(5) ~~Felony crime against a child including, but not limited to, sexual exploitation of a minor.~~ If a person subject to a record check refuses to consent to a record check, the person shall be prohibited from involvement with child care.

(6) ~~Forcible felony.~~ If a person has been convicted of a crime and makes what the person knows to be a false statement of material fact in connection with the conviction or record check, the person shall be prohibited from involvement with child care.

ITEM 9. Amend subparagraph **120.11(3)“f”(1)** as follows:

(1) A person with the following conviction or founded abuse report is prohibited from involvement with child care for five years from the date of the conviction or ~~the~~ founded abuse report:

1. Conviction of a controlled substance offense ~~under Iowa Code chapter 124.~~
2. No change.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- ITEM 10. Adopt the following **new** subparagraph **120.11(3)“h”(6)**:
- (6) The department shall reevaluate any transgressions where a state or federal law change requires different considerations of the transgression than had been previously applied.

ARC 3969C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to child care assistance and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 170, “Child Care Services,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 234.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 234.6 and 2018 Iowa Acts, Senate File 2418.

Purpose and Summary

These amendments propose to update the Child Care Assistance (CCA) half-day rate ceilings in accordance with 2018 Iowa Acts, Senate File 2418. Providers and families will be affected by these changes. The proposed amendments will allow providers to be paid more for the care they provide to CCA-eligible families. Families will also have more and better-quality choices of CCA providers.

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 rate increases will result in higher payments to child care providers for the services they provide to CCA-eligible families.

Jobs Impact

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

Waivers

These amendments do not provide a specific waiver authority because anyone may request a waiver of these provisions in a specified situation under the Department’s general rule on exceptions at 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 18, 2018. Comments should be directed to:

HUMAN SERVICES DEPARTMENT[441](cont'd)

Harry Rossander
Bureau of Policy Coordination
Department of Human Services
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 paragraph **170.4(3)“g”** as follows:

g. Iowa records checks for in-home care. If a person who provides in-home care applies to receive public funds as reimbursement for providing child care for eligible clients, the provider shall complete and submit to the department ~~Form 470-5143, Iowa Department of Human Services Record Check Authorization Form~~ an authorization for release of child and dependent adult abuse information. The department shall use this form to conduct Iowa criminal history record and child abuse record checks.

(1) to (3) No change.

ITEM 2. Amend paragraph **170.4(7)“a”** as follows:

a. Rate of payment. The rate of payment for child care services, except for in-home care which shall be paid in accordance with 170.4(7)“d,” shall be the actual rate charged by the provider for a private individual, not to exceed the maximum rates shown below. When a provider does not have a half-day rate in effect, a rate is established by dividing the provider’s declared full-day rate by 2. When a provider has neither a half-day nor a full-day rate, a rate is established by multiplying the provider’s declared hourly rate by 4.5. Payment shall not exceed the rate applicable to the provider and age group in Table I 1, except for special needs care which shall not exceed the rate applicable to the provider and age group in Table H 2. To be eligible for the special needs rate, the provider must submit documentation to the child’s service worker that the child needing services has been assessed by a qualified professional and meets the definition for “child with special needs,” and a description of the child’s special needs, including, but not limited to, adaptive equipment, more careful supervision, or special staff training.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Table I Half-Day Rate Ceilings for Basic Care							
Age Group	Child Care Center		Child Development Home Category A or B		Child Development Home Category C		Nonregistered Family Home
	Basic	QRS 5	Basic	QRS 5	Basic	QRS 5	
Infant and Toddler	\$16.78	\$20.50	\$12.98	\$13.75	\$12.44	\$15.00	\$8.19
Preschool	\$13.53	\$17.50	\$12.18	\$13.50	\$12.18	\$13.75	\$7.19
School Age	\$12.18	\$14.75	\$10.82	\$12.50	\$10.82	\$13.00	\$7.36

Table 1 Half-Day Rate Ceilings for (Licensed Center)								
Age Group	No QRS		QRS 1 or 2		QRS 3 or 4		QRS 5	
	Basic	Special Needs	Basic	Special Needs	Basic	Special Needs	Basic	Special Needs
Infant and Toddler	\$17.00	\$51.94	\$19.75	\$51.94	\$20.50	\$51.94	\$21.90	\$51.94
Preschool	\$14.75	\$30.43	\$15.50	\$30.43	\$16.40	\$30.43	\$18.69	\$30.43
School Age	\$12.18	\$30.34	\$12.50	\$30.34	\$13.50	\$30.34	\$15.00	\$30.34

Table II Half-Day Rate Ceilings for Special Needs Care				
Age Group	Child Care Center	Child Development Home Category A or B	Child Development Home Category C	Nonregistered Family Home
Infant and Toddler	\$51.94	\$17.05	\$13.40	\$10.24
Preschool	\$30.43	\$15.83	\$13.40	\$ 8.99
School Age	\$30.34	\$14.61	\$12.18	\$ 9.20

Table 2 Half-Day Rate Ceilings for (Child Development Home A/B)								
Age Group	No QRS		QRS 1 or 2		QRS 3 or 4		QRS 5	
	Basic	Special Needs	Basic	Special Needs	Basic	Special Needs	Basic	Special Needs
Infant and Toddler	\$12.98	\$19.47	\$13.50	\$20.25	\$13.75	\$20.63	\$14.00	\$21.00
Preschool	\$12.50	\$18.75	\$12.75	\$19.13	\$13.00	\$19.50	\$13.75	\$20.63
School Age	\$10.82	\$16.23	\$11.25	\$16.88	\$12.00	\$18.00	\$12.50	\$18.75

Table 3 Half-Day Rate Ceilings for (Child Development Home C)								
Age Group	No QRS		QRS 1 or 2		QRS 3 or 4		QRS 5	
	Basic	Special Needs	Basic	Special Needs	Basic	Special Needs	Basic	Special Needs
Infant and Toddler	\$13.00	\$19.50	\$14.00	\$21.00	\$14.50	\$21.75	\$15.00	\$22.50
Preschool	\$12.50	\$18.75	\$13.00	\$19.50	\$13.50	\$20.25	\$15.00	\$22.50
School Age	\$11.25	\$16.88	\$12.00	\$18.00	\$12.50	\$18.75	\$14.00	\$21.00

HUMAN SERVICES DEPARTMENT[441](cont'd)

<u>Age Group</u>	<u>Basic</u>	<u>Special Needs</u>
<u>Infant and Toddler</u>	<u>\$8.19</u>	<u>\$12.29</u>
<u>Preschool</u>	<u>\$7.19</u>	<u>\$10.79</u>
<u>School Age</u>	<u>\$7.36</u>	<u>\$11.04</u>

The following definitions apply in the use of the rate tables:

(1) ~~“Child-care Licensed center” shall mean those providers as defined in 170.4(3) “a.”~~ ~~“Registered child development home A/B” or “child development home C” shall mean those providers as defined in 170.4(3) “b.”~~ ~~“Nonregistered family child care home (not registered)” shall mean those providers as defined in 441—Chapter 120.~~

(2) Under age group, “infant and toddler” shall mean age two weeks to two years; “preschool” shall mean two years to school age; “school age” shall mean a child in attendance in full-day or half-day classes.

(3) ~~“QRS 5” shall mean a provider who has achieved a rating of Level 5 under the quality rating system.~~ ~~“No QRS” shall mean a provider who is not participating in the quality rating system.~~

(4) A provider who is rated under the quality rating system shall be paid according to the corresponding QRS payment level in the tables above only during the period the rating is valid as defined in 441—Chapter 118. If the provider’s QRS rating expires, the provider shall be paid according to the “No QRS” payment level.

(5) For a provider rated “QRS 1” through “QRS 4,” if the rating period expires before a new QRS level is approved, the provider will be paid according to the “No QRS” payment level until the new QRS level is approved.

(6) For a provider rated “QRS 5,” if a renewal application is received before the current rating period expires, the provider will continue to be paid according to the “QRS 5” payment level until a decision is made on the provider’s application.

(7) “QRS 1 or 2” shall mean a provider who has achieved a rating of Level 1 or Level 2 under the quality rating system.

(8) “QRS 3 or 4” shall mean a provider who has achieved a rating of Level 3 or Level 4 under the quality rating system.

(9) “QRS 5” shall mean a provider who has achieved a rating of Level 5 under the quality rating system.

ARC 3973C

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

Proposing rule making related to manufactured housing program fund and providing an opportunity for public comment

The Iowa Finance Authority hereby proposes to adopt new Chapter 45, “Manufactured Housing Program Fund,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 16.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2018 Iowa Acts, House File 2480, section 1.

IOWA FINANCE AUTHORITY[265](cont'd)

Purpose and Summary

This rule making adopts a new chapter of rules to implement the Manufactured Housing Program Fund, as required by 2018 Iowa Acts, House File 2480, section 1.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on September 18, 2018. Comments should be directed to:

Mark Thompson
Iowa Finance Authority
2015 Grand Avenue
Des Moines, Iowa 50312
Phone: 515.725.4937
Email: mark.thompson@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following **new** 265—Chapter 45:

CHAPTER 45
MANUFACTURED HOUSING
PROGRAM FUND

IOWA FINANCE AUTHORITY[265](cont'd)

265—45.1(87GA, HF2480) Purpose. The purpose of these rules is to allow the authority to allocate funds to financial institutions or other lenders to finance the purchase by individuals of manufactured homes that are in compliance with all laws, rules, and standards that are applicable to manufactured homes. The fund is designed exclusively for manufactured homes sited on leased land located in the state of Iowa.

265—45.2(87GA, HF2480) Definitions.

“*Authority*” means the Iowa finance authority.

“*Borrower*” means one or more individual(s) borrowing or seeking to borrow money for the purchase of a manufactured home.

“*Financial institution*” means a financial institution as defined in Iowa Code section 12C.1 that has been approved as a depository of public funds pursuant to Iowa Code section 12C.2.

“*Fund*” means the manufactured housing program fund created pursuant to 2018 Iowa Acts, House File 2480, section 1.

“*Lender*” means a lender as defined in Iowa Code section 537.1301 that is licensed by the banking division of the department of commerce and that has been approved as a depository of public funds pursuant to Iowa Code section 12C.2.

“*Loan*” means a loan from a financial institution or other lender to a borrower.

“*Manufactured home*” or “*manufactured housing*” means the same as defined in Iowa Code section 435.1.

“*Program*” means the manufactured housing program.

“*Revolving funds*” means the funds created by Iowa Code sections 16.46 through 16.49.

265—45.3(87GA, HF2480) Sources of funds.

45.3(1) Authorized transfers. In addition to any moneys that may be appropriated to the fund, the authority is authorized by 2018 Iowa Acts, House File 2480, section 1, to transfer for deposit into the fund for any fiscal year any unencumbered and unobligated moneys in the revolving funds from the prior fiscal year. However, the maximum amount of moneys that may be so transferred for any fiscal year may not exceed the lesser of \$1,000,000 or an amount equal to the total amount of any unencumbered and unobligated moneys in the revolving funds available for transfer from the previous fiscal year reduced by \$1,000,000.

45.3(2) Recapture and repayments—nonreversion. Pursuant to 2018 Iowa Acts, House File 2480, section 1, recapture of awards and other repayments to the fund shall be deposited into the fund and are appropriated to the authority to be used for the program. Notwithstanding Iowa Code section 8.33, unencumbered or unobligated moneys remaining in the fund on June 30 of any fiscal year shall not revert to any other fund but shall be available for expenditure in subsequent years. However, any unencumbered or unobligated moneys remaining in the fund on June 30 of any fiscal year that were transferred to the fund as described in subrule 45.3(1) shall revert to the revolving fund from which the transfer was made. Notwithstanding Iowa Code section 12C.7(2), interest or earnings on moneys in the fund or appropriated to the fund shall be credited to the fund.

265—45.4(87GA, HF2480) Program overview. The program is established as a means of facilitating affordable financing for the purchase of eligible manufactured homes to be sited on leased land located in the state of Iowa. By providing capital at a low interest rate in the form of linked deposits to financial institutions and other lenders, the program is intended to enable financial institutions and other lenders, in turn, to offer lower interest rate loans to borrowers. The authority’s role is strictly that of a depositor, not a lender, loan guarantor, or loan participant.

265—45.5(87GA, HF2480) Eligible loans. To be eligible for a linked deposit under the program, a loan shall meet all of the following requirements:

1. The loan must be for the purchase—not refinancing—of a manufactured home as the borrower’s primary residence;

IOWA FINANCE AUTHORITY[265](cont'd)

2. The manufactured home must be sited on leased land located in the state of Iowa;
3. The term of the loan shall not exceed 30 years;
4. The loan shall be fully amortized;
5. The terms of the loan shall contain no prepayment penalties;
6. The interest rate payable on the loan shall not exceed 9 percent per annum;
7. Fees pursuant to the loan charged by the financial institution or other lender to cover its costs of originating the loan (origination fees, closing fees, etc.) shall, in the aggregate, not exceed 1 percent of the principal loan amount;
8. Closing agent/settlement fees paid to third-party closers, if any, shall not exceed \$500;
9. Customary and reasonable closing costs shall be allowed; and
10. The financial institution or other lender shall comply with all applicable fair lending laws and regulations.

265—45.6(87GA, HF2480) Linked deposits.

45.6(1) Linked deposits shall be made pursuant to a lender participation agreement to be created by the authority.

45.6(2) The process to create a linked deposit shall be as follows:

a. Once a financial institution or other lender has received a completed loan application from a borrower, the financial institution or other lender shall notify the authority via a linked deposit reservation request. The reservation request shall be on a form, which is created and may be periodically updated by the authority, and which may be in a paper format or an online web-based format at the authority's discretion. The authority shall review the reservation request; if the reservation request is approved, the authority shall tentatively reserve an amount in or available to the fund for up to 60 days for a linked deposit for the loan that was the subject of the request. No reservation shall be made if the requested loan amount exceeds the amount(s) in and available to the fund. The reservation shall be terminated if the loan does not close within the 60-day period. If the reservation request is not approved, the authority shall notify the financial institution or other lender and state the reason why the request was not approved.

b. The financial institution or other lender shall review the borrower's loan application, applying ordinary manufactured housing lending underwriting criteria. If the loan application is approved by the financial institution or other lender, the financial institution or other lender shall submit a request to the authority for a linked deposit. The request shall be on a form, which is created and may be periodically updated by the authority, and which may be in a paper format or an online web-based format at the authority's discretion.

c. Upon receipt of a linked deposit request, the authority shall review the information provided and make a determination as to whether the loan is eligible under the program's criteria. If necessary, the authority may request additional information. If the loan is determined to be eligible, the authority shall, if necessary to make the linked deposit, transfer moneys from one or more of the revolving funds, at the authority's discretion, into the fund to ensure there is a sufficient amount available in the fund to make the linked deposit. The authority shall then deposit with the financial institution or lender an amount equal to the principal amount of the loan via automated clearing house (ACH) money transfer. The linked deposit shall not be security for the loan nor shall it be a loan guarantee. The financial institution or lender shall bear all financial risk for the loan. If the loan is determined ineligible, the authority shall notify the financial institution or other lender and state the reason why the request was not approved.

d. The authority shall receive monthly bank statements for the linked deposit account.

e. The moneys in the linked deposit account shall remain in the account for the duration of the loan. Annually, as of June 30, the financial institution or other lender shall notify the authority of the amount of principal that has been repaid on the loan during the previous 12 months. The authority shall then withdraw from the linked deposit account an amount equal to the principal that was repaid on the loan during the previous year so that the amount of the linked deposit equals the outstanding principal balance of the loan.

f. If a financial institution or other lender has more than one loan in the program, the linked deposits for those loans may be maintained in a single account.

IOWA FINANCE AUTHORITY[265](cont'd)

g. The linked deposit for a loan shall be withdrawn in full if the loan is paid off, if the manufactured home purchased with the loan proceeds is destroyed, or if the borrower defaults on the loan.

h. The linked deposit account shall bear interest at a rate of not less than 1 percent per annum.

265—45.7(87GA, HF2480) Limits on linked deposits. In any state of Iowa fiscal year, the authority shall not deposit more than 50 percent of the moneys in or available to the fund with any one financial institution or other lender pursuant to the program; provided, however, that after the first six months of such fiscal year, any participating financial institution or other lender may request linked deposits of moneys remaining in or available to the fund, regardless of any amounts previously deposited with such financial institution or other lender.

265—45.8(87GA, HF2480) Availability of moneys for linked deposits. The obligation of the authority to deposit funds into a linked deposit account shall be subject to the availability of moneys either in the fund or transferrable to the fund from the sources set forth in 2018 Iowa Acts, House File 2480, section 1, under the limitations set forth in that section. The authority shall maintain a running total of the unreserved amounts in and available to the fund on the authority's website.

These rules are intended to implement 2018 Iowa Acts, House File 2480, section 1.

ARC 3977C

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rule making related to purpose and organization and providing an opportunity for public comment

The Board of Pharmacy hereby proposes to amend Chapter 1, "Purpose and Organization," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.76 and 155A.13C.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.14, 147.19, 155A.2A, 155A.3 and 155A.13C and 2018 Iowa Acts, Senate File 2298.

Purpose and Summary

During the 2017 and 2018 sessions of the 87th General Assembly, changes were made to the Iowa Code to allow the Board to designate a pool of up to seven alternate board members, subject to approval by the Governor, to hear contested case hearings when needed; add a Certified Pharmacy Technician to the composition of the Board; update the definitions of wholesale distributors and limited distributors; and define third-party logistics providers. The proposed amendments incorporate language to implement the changes that were made to the Iowa Code and provide general clerical updates where appropriate.

Fiscal Impact

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

Jobs Impact

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

PHARMACY BOARD[657](cont'd)

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on September 18, 2018. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

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

657—1.2(17A,147,155A,272C) Description and organization of board. The board is comprised of five pharmacist members, one certified pharmacy technician member, and two representatives of the general public, all appointed by the governor. An administrative staff headed by a board-appointed executive director assists board members.

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

ITEM 2. Amend rule 657—1.3(17A,272C) as follows:

657—1.3(17A,272C) Responsibilities. The responsibilities of the board include but are not limited to:

1. and 2. No change.
3. Regulating the legal distribution of prescription drugs through the licensing of pharmacies and wholesalers, wholesale distributors, limited distributors, outsourcing facilities, and third-party logistics providers under the authority of Iowa Code chapter 155A.
4. to 8. No change.
9. Instituting disciplinary actions, hearing contested cases, issuing decisions and orders, and enforcing the terms of disciplinary orders filed against licensees, registrants, or permit holders for

PHARMACY BOARD[657](cont'd)

grounds provided in Iowa Code sections 124.303, 124.304, 124B.12, 147.55, 155A.6, 155A.6A, 155A.6B, 155A.12, 155A.13, 155A.13A, 155A.15, and 155A.17, and 155A.42 and 2018 Iowa Acts, Senate File 2298, as appropriate.

10. No change.

11. Registering pharmacists in charge of nonresident pharmacies pursuant to the authority of Iowa Code chapter 155A.

ITEM 3. Amend rule 657—1.4(17A,272C) as follows:

657—1.4(17A,272C) Submission of complaints and requests. Members of the general public may obtain information or submit requests or complaints relative to the practice of pharmacy, continuing education for pharmacists, the legal distribution and dispensing of prescription drugs, or any other matters relating to the function and authority of the board. Correspondence should be submitted to the Executive Director, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688. Communication may also be submitted via the board's website at www.state.ia.us/ibpe-pharmacy.iowa.gov.

ITEM 4. Amend rule 657—1.5(17A,21) as follows:

657—1.5(17A,21) Meetings. All meetings of the board shall be open and public, and all members of the public shall be permitted to attend any meeting unless Iowa Code section 21.5 or another provision of law authorizes a closed session. Closed session shall only be by affirmative public vote of either two-thirds of the members of the board or all of the members present at the meeting.

1.5(1) No change.

1.5(2) Meeting schedule and public notice. The board shall set the dates of its meetings at the first meeting following May 1 of each fiscal year. Notices of meetings shall be routinely posted in the space set aside for that purpose in the office of the board and on the board's website at www.state.ia.us/ibpe-pharmacy.iowa.gov. Members of the general public may obtain the dates, times, and locations of board meetings by submitting a request to the Executive Director, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by accessing the board's website.

1.5(3) No change.

1.5(4) Minutes of meetings. The executive ~~secretary~~ director shall keep a record of all minutes of the board, and these minutes, except as otherwise provided by statute, shall be open to the public for inspection.

1.5(5) No change.

~~Rules 657—1.1(17A) through 657—1.5(17A,21) are intended to implement Iowa Code sections 17A.3, 21.3 through 21.5, 124.301, 147.14, 147.76, 155A.2, 272C.3, and 272C.4.~~

ITEM 5. Amend rule 657—1.6(124,147,155A) as follows:

657—1.6(124,147,155A) Fee for returned check. A nonrefundable fee of \$20 may be charged for a check returned for any reason. If a license, registration, or permit has been issued by the board office based on a check for the payment of fees and the check is later returned by the bank, the board shall request payment by certified check, cashier's check, or money order. If the fees, including the fee for a returned check, are not paid within 15 calendar days of notification of the returned check, the license, registration, or permit is no longer in effect and the status reverts to what it would have been had the license, registration, or permit not been issued. Late payment penalties will be assessed, as provided in board rules, for subsequent requests to renew or reissue the license, registration, or permit.

ITEM 6. Adopt the following new rule 657—1.8(155A):

657—1.8(155A) Alternate board members. The board may have a pool of up to seven alternate members, to include individuals who may or may not be licensed to practice under Iowa Code chapter 155A, to substitute for board members unable to participate in a contested case hearing. Utilization of such alternate board members shall be in compliance with Iowa Code section 155A.2A. Whenever

PHARMACY BOARD[657](cont'd)

there are fewer than seven individuals serving in the pool of alternate board members, the executive director may present to the board for approval a list of individuals eligible to serve in the pool. The board may select individuals to serve as alternate board members, subject to approval by the governor. The term of each alternate board member shall begin on the first day of the month following approval by the governor and shall last for three years or until the alternate board member resigns, whichever occurs first. An alternate board member may serve no more than nine years as an alternate board member. Upon approval by the governor of an alternate board member, the executive director may select that alternate board member to hear a contested case when a sufficient number of board members are unavailable to hear a contested case for any reason.

ITEM 7. Amend **657—Chapter 1**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 17A.3, 21.3 through 21.5, 124.301, 124B.11, 147.14, 147.76, 147.96, 155A.2, 155A.2A, 155A.6, 155A.6A, 155A.6B, 155A.11, 155A.13, 155A.13A, 155A.13C, 155A.14, and 155A.15, 155A.17, 155A.42, 272C.3, and 272C.4 and 2018 Iowa Acts, Senate File 2298.

ARC 3978C

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rule making related to USP general chapter 800 and providing an opportunity for public comment

The Board of Pharmacy hereby proposes to amend Chapter 8, “Universal Practice Standards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.76, 155A.2 and 155A.13.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 155A.2 and 155A.13.

Purpose and Summary

The United States Pharmacopeial Convention (USP) establishes national minimum standards for a number of health care related topics. USP General Chapter 800, enforceable by the federal Food and Drug Administration, provides the national minimum standard for the proper handling of hazardous drugs to protect health care workers, patients, and the environment and will become effective (enforceable) December 1, 2019. In advance of the effective date of USP General Chapter 800, this proposed amendment requires all pharmacies to ensure adequate protection of pharmacy personnel and patients from hazardous drugs and encourages pharmacies to implement the standards identified in USP General Chapter 800.

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 is anticipated or can be determined. It is unknown to what extent each individual pharmacy will need to implement protective measures to protect its personnel who handle hazardous drugs.

PHARMACY BOARD[657](cont'd)

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on September 18, 2018. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend rule 657—8.5(155A) as follows:

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

8.5(1) to **8.5(10)** No change.

8.5(11) Hazardous drugs. The pharmacy shall ensure pharmacy personnel and patients are adequately protected from unnecessary exposure to hazardous drugs, and the pharmacy is encouraged to implement protective methods identified in United States Pharmacopeia general chapter 800.

ARC 3974C**PHARMACY BOARD[657]****Notice of Intended Action****Proposing rule making related to wholesale drug licenses and providing an opportunity for public comment**

The Board of Pharmacy hereby proposes to rescind Chapter 17, “Wholesale Drug Licenses,” and adopt new Chapter 17, “Wholesale Distributor Licenses,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.76 and 155A.17.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 124.301 to 124.308, 126.3, 126.9 to 126.12, 155A.3 as amended by 2018 Iowa Acts, Senate File 2298, 155A.4, 155A.17 as amended by 2018 Iowa Acts, Senate File 2298, 155A.19, 155A.21, 155A.23 and 155A.40 and the Drug Supply Chain Security Act (DSCSA).

Purpose and Summary

In November 2013, Congress enacted the Drug Quality and Security Act, which included the Drug Supply Chain Security Act. DSCSA sets national minimum standards for entities engaged in the wholesale distribution of drugs in the United States. DSCSA also prohibits any state from enacting any law or rule more or less strict than DSCSA. The proposed revised chapter establishes the minimum standards for wholesale distributor licenses and addresses the following topics: licensure and renewal processes; grounds for denial of licensure; required policies and procedures; requirements of facilities, security, and storage; reporting of discipline and convictions; and grounds for discipline.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on September 18, 2018. Comments should be directed to:

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

PHARMACY BOARD[657](cont'd)

Public Hearing

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

September 25, 2018	Shared Conference Room, Suite E
9 a.m.	400 S.W. 8th Street
	Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Rescind 657—Chapter 17 and adopt the following **new** chapter in lieu thereof:

CHAPTER 17
WHOLESALE DISTRIBUTOR LICENSES

657—17.1(155A) Purpose and scope. This chapter establishes the licensing requirements and standards applicable to a wholesale distributor of human prescription drugs as defined by Iowa Code section 155A.3(49) as amended by 2018 Iowa Acts, Senate File 2298, and the Drug Supply Chain Security Act. In the event the requirements in this chapter directly conflict with any federal law or regulation, the federal law or regulation shall supersede the requirements in this chapter.

657—17.2(155A) Definitions. In addition to the definitions found in Iowa Code section 155A.3 as amended by 2018 Iowa Acts, Senate File 2298, which are adopted for the purposes of this chapter, the following definitions shall apply:

“*Drug Supply Chain Security Act*” or “*DSCSA*” means the law enacted by Congress in November 2013 which establishes the minimum standards for ensuring a legitimate drug supply chain.

“*Facility manager*” means the individual responsible for managing the daily operations of the wholesale distribution facility.

“*FDA*” means the United States Food and Drug Administration.

“*Returns processor*” means a person who owns or operates an establishment that disposes or otherwise processes saleable or nonsaleable product received from a purchaser, manufacturer, or seller who purchased or received such product at wholesale, such that the product may be processed for credit to the purchaser, manufacturer, or seller, or disposed of for no further distribution.

“*Wholesale distribution*” means the distribution of a drug to a person other than a consumer or patient, or the receipt of a drug by a person other than a consumer or patient, but does not include transactions identified in Iowa Code section 155A.3(48) as amended by 2018 Iowa Acts, Senate File 2298, and DSCSA.

“*Wholesale distributor*” means a person, other than a manufacturer, a manufacturer's co-licensed partner, a third-party logistics provider, or a repackager, engaged in the wholesale distribution of a prescription drug.

PHARMACY BOARD[657](cont'd)

657—17.3(155A) Wholesale distributor license. Every wholesale distributor that engages in wholesale distribution into, out of, or within this state must be licensed by the board before engaging in wholesale distribution. Where operations are conducted at more than one location by a single wholesale distributor, each such location shall be separately licensed. The applicant shall submit a completed application with a nonrefundable application fee of \$750. A wholesale distributor that engages in wholesale distribution of controlled substances into, out of, or within this state shall also obtain a controlled substances Act registration pursuant to 657—Chapter 10.

17.3(1) Application. The applicant shall complete an application which requires demographic information about the wholesale distributor, ownership information, information about the wholesale distributor's registered agent located in Iowa, information about the wholesale distributor's licensure with other state and federal regulatory authorities, criminal and disciplinary history information, information regarding the facility manager, a detailed description of the services to be provided in this state, and other necessary information as determined by the board. An application for a wholesale distributor license, including an application for registration pursuant to 657—Chapter 10, if applicable, will become null and void if the applicant fails to complete the licensure process, including opening for business, within six months of receipt by the board of the required application(s). The following shall also be submitted by the applicant for the application to be considered complete:

a. Criminal history record check. Upon receipt of a licensure application, the board shall provide a fingerprint packet to the applicant's facility manager, who shall submit the completed fingerprint packet and a signed waiver form to facilitate a national criminal history background check of the facility manager. The cost of the evaluation of the fingerprint packet and the Iowa division of criminal investigation and the United States Federal Bureau of Investigation criminal history background checks will be assessed to the applicant.

b. Surety bond or equivalent security. The applicant shall file with the board a \$100,000 surety bond or evidence that the wholesale distributor possesses the required bond in another state where the wholesale distribution facility does business. If a wholesale distributor's annual gross receipts from the previous tax year were \$10 million or less, the wholesale distributor need only file a \$25,000 surety bond. In lieu of a surety bond, the applicant may submit an irrevocable standby letter of credit in the amount of \$100,000 or \$25,000 as applicable. A government-owned wholesale distributor is exempt from the surety bond requirement.

c. Evidence of current verified-accredited wholesale distributors (VAWD) accreditation by the National Association of Boards of Pharmacy. This requirement does not apply to new applicants located in Iowa which must undergo an opening inspection by a board compliance officer or agent of the board prior to issuance of an initial license. Wholesale distributors located in Iowa shall provide evidence of VAWD accreditation on or before license renewal.

d. Attestation by facility manager. The applicant shall submit attestation that the facility manager has adequate experience in prescription drug distribution; is actively involved in the daily operation of the wholesale distribution facility; maintains a functional understanding of federal and state laws, rules, and regulations pertaining to wholesale drug distribution; and has no felony convictions or convictions related to prescription drug distribution, including distribution of controlled substances.

17.3(2) License renewal. A wholesale drug license shall be renewed before January 1 of each year and may be renewed as early as November 1 prior to expiration. The wholesale distributor shall submit a completed application and nonrefundable application fee as required in this rule.

a. *Delinquent license grace period.* If a wholesale drug license has not been renewed or canceled prior to expiration, the license becomes delinquent on January 1. A wholesale distributor that submits a completed license renewal application, nonrefundable application fee, and nonrefundable late penalty fee of \$750 postmarked or delivered to the board by January 31 shall not be subject to disciplinary action for continuing to provide services in this state in the month of January.

b. *Delinquent license reactivation beyond grace period.* If a wholesale drug license has not been renewed prior to the expiration of the one-month grace period identified in paragraph 17.3(2) "a," the wholesale distributor may not operate or do business in Iowa. A wholesale distributor that continues to do business in Iowa without a current license may be subject to disciplinary sanctions pursuant to the

PHARMACY BOARD[657](cont'd)

provisions of 657—subrule 36.6(22). A wholesale distributor without a current license may apply for reactivation by submitting a license application for reactivation and a nonrefundable \$2,000 reactivation fee. As part of the reactivation application, the wholesale distributor shall disclose the services, if any, that were provided in this state while the license was delinquent.

17.3(3) License changes. When a licensed wholesale distributor changes its name, ownership, facility manager, or location, a wholesale drug license application with a nonrefundable application fee as provided in subrule 17.3(1) shall be submitted to the board. A change of ownership occurs when the owner listed on the wholesale distributor's most recent application changes or when there is a change affecting the majority ownership interest of the owner listed on the wholesale distributor's most recent application. A change of wholesale distributor location within Iowa, if the new location was not a licensed wholesale distributor immediately prior to the relocation, shall require an on-site inspection of the new location as provided in paragraph 17.3(1) "c."

a. Locations in Iowa. Applications for license changes shall be submitted to the board as far in advance as possible prior to the anticipated change.

b. Locations outside of Iowa. Applications for license changes shall be submitted to the board within ten days of the wholesale distributor's receipt of an updated license from the home state regulatory authority.

c. License change application submission. Applications for license changes shall be timely submitted pursuant to this subrule. A licensed wholesale distributor that has timely submitted a license change application and fee may continue to service Iowa customers while the license change is pending final approval. An applicant that has submitted an application for license changes after the required date of submission pursuant to this subrule but within 30 days of the required date of submission shall be assessed a nonrefundable late penalty fee of \$750 in addition to the license fee. An applicant that has submitted an application for license changes 31 days or later following the required date of submission pursuant to this subrule shall be assessed a nonrefundable reactivation fee of \$2,000.

17.3(4) License cancellation. A licensee intending to discontinue wholesale distribution into, out of, or within this state shall notify the board in writing of its intent as far in advance as possible of the discontinuation of services and shall request that the license be administratively canceled. Such notification shall include the name and license number of the wholesale distributor, the anticipated date of discontinuation of service, and the identification of the wholesale distributor to which drugs and records will be transferred. To the extent possible to avoid unnecessary delays in obtaining product for patients, a wholesale distributor that intends to discontinue services in this state should provide advance notice to its customers of the date that the wholesale distributor intends to cease distribution in this state.

657—17.4(155A) Grounds for denial. The board may deny a wholesale distributor license application, or refuse to renew a wholesale distributor license, for any of the following:

1. Any criminal convictions of the applicant or facility manager related to wholesale distribution;
2. Any felony convictions of the applicant;
3. Insufficient experience in the wholesale distribution business, including a lack of knowledge regarding the requirements of applicable federal and state laws or regulations;
4. The furnishing of false or fraudulent material;
5. Suspension, revocation, or other disciplinary action taken by the licensing authority of another state or federal agency against any license or registration currently or previously held by the applicant;
6. Noncompliance with licensing requirements under previously granted licenses, if any;
7. Noncompliance with the requirements to maintain or make available to the board, its agents, or to federal, state, or local law enforcement officials those records required to be maintained by wholesale distributors;
8. Conducting transactions with a person that is not properly licensed or registered; and
9. Any other factors or qualifications the board considers relevant to and consistent with public health and safety.

657—17.5 and 17.6 Reserved.

PHARMACY BOARD[657](cont'd)

657—17.7(124,155A) Compliance with federal and state laws. A wholesale distributor is responsible for complying with all applicable federal and state laws, including those not specifically identified in this chapter.

17.7(1) A licensed wholesale distributor shall meet the requirements set forth in Section 582 of the Drug Supply Chain Security Act, including but not limited to:

- a. 21 U.S.C. §360eee-1, relating to product tracing, product identifiers, authorized trading partners, suspect products, and illegitimate products;
- b. 21 U.S.C. §360eee-2, relating to national standards for drug wholesale distributors; and
- c. Any regulations promulgated thereunder.

17.7(2) A licensed wholesale distributor shall permit agents of the board to enter and inspect the facility for compliance with federal and state laws. A licensed wholesale distributor shall cooperate with other regulatory or law enforcement officials with jurisdiction over the facility.

657—17.8(124,155A) Written policies and procedures. Wholesale distributors shall establish, maintain, and adhere to written policies and procedures that are in compliance with federal law for the receipt, security, storage, inventory, and distribution of prescription drugs, including policies and procedures for identifying, recording, and reporting losses or thefts and for correcting all errors and inaccuracies in inventories. Wholesale distributors shall also include in their written policies and procedures the following:

17.8(1) *Oldest stock distributed first.* A procedure whereby the oldest approved stock of a prescription drug product is distributed first. The procedure may permit deviation from this requirement if such deviation is temporary and appropriate. The requirement of this subrule shall not apply to a returns processor.

17.8(2) *Recalls and market withdrawals.* A procedure to be followed for handling recalls and withdrawals of prescription drugs.

- a. The procedure shall be adequate to deal with recalls and withdrawals due to:
 - (1) Any action initiated at the request of the Food and Drug Administration or other federal, state, or local law enforcement agency or other government agency, including the board;
 - (2) Any voluntary action by the manufacturer to remove defective or potentially defective drugs from the market; or
 - (3) Any action undertaken to promote public health and safety by replacing existing merchandise with an improved product or new package design.

b. The requirement of this subrule shall not apply to a returns processor.

17.8(3) *Emergency and disaster plan.* A procedure to ensure that wholesale distributors prepare for, protect against, and handle any crisis that affects security or operation of any facility in the event of strike, fire, flood, or other natural disaster, or other situations of local, state, or national emergency.

17.8(4) *Outdated drugs.* A procedure to ensure that any outdated prescription drugs shall be segregated from other drugs and either returned to the manufacturer or destroyed. This procedure shall provide for written documentation of the disposition of outdated prescription drugs. The requirement of this subrule shall not apply to a returns processor.

17.8(5) *Security and storage.* A procedure to ensure adequate security in accordance with rule 657—17.10(124,155A) and proper storage conditions in accordance with rule 657—17.11(155A). The requirement for proper storage conditions shall not apply to a returns processor.

17.8(6) *Drugs supplied to salesperson/representative.* If supplying drugs to wholesale distributor salespersons, a procedure directing that the security, storage, and record-keeping requirements contained in these rules shall be maintained by those salespersons.

17.8(7) *Personnel.* A procedure to ensure the wholesale distributor employs personnel with the education and experience appropriate to the responsibilities of the position held by the individual. Licensed wholesale distributors shall establish and maintain lists of officers, directors, managers, and other persons in charge of wholesale drug distribution, storage, and handling, including a description of their duties and a summary of their qualifications.

PHARMACY BOARD[657](cont'd)

657—17.9(155A) Facilities. All wholesale distribution facilities shall:

1. Be of suitable size and construction to facilitate cleaning, maintenance, and proper operations;
2. Have storage areas designed to provide adequate lighting, ventilation, temperature, sanitation, humidity, space, equipment, and security conditions;
3. Except for returns processors, have a quarantine area for storage of outdated, damaged, unsafe, deteriorated, misbranded, or adulterated prescription drugs; for drugs that are in immediate or sealed outer or sealed secondary containers that have been opened; for drugs that have been identified as being defective or are believed to be defective; and for drugs that do not meet the FDA-approved criteria for the product;
4. Be maintained in a clean and orderly condition;
5. Be free from infestation by insects, rodents, birds, or vermin of any kind.

657—17.10(124,155A) Security.

17.10(1) *Secure from unauthorized entry.* All wholesale distribution facilities shall be secure from unauthorized entry.

- a. Access from outside the premises shall be kept to a minimum and be well controlled.
- b. The outside perimeter of the premises shall be well lighted.
- c. Entry into areas where prescription drugs are held shall be limited to authorized personnel.

17.10(2) *Alarm.* All wholesale distribution facilities shall be equipped with an alarm system to deter entry after hours.

17.10(3) *Security system.* All wholesale distribution facilities shall be equipped with a security system that will provide suitable protection against theft and diversion. When appropriate, the security system shall provide protection against theft or diversion that is facilitated or hidden by tampering with computers or electronic records.

657—17.11(155A) Storage. All prescription drugs shall be stored at appropriate temperatures and under appropriate conditions in accordance with requirements, if any, in the labeling of such drugs or with requirements in the current edition of the United States Pharmacopeia. Appropriate manual, electromechanical, or electronic temperature and humidity recording equipment, devices, or logs shall be utilized to document proper storage of prescription drugs. The requirements of this rule do not apply to returns processors.

657—17.12 to 17.16 Reserved.

657—17.17(155A) Reporting discipline and criminal convictions. No later than 30 days after the final action, a wholesale distributor shall provide to the board written notice, including an unredacted copy of the action or order, of any disciplinary or enforcement action imposed by any licensing or regulatory authority on any license or registration held by the wholesale distributor. Discipline may include, but is not limited to, fine or civil penalty, citation or reprimand, probationary period, suspension, revocation, and voluntary surrender. No later than 30 days after conviction, a wholesale distributor shall provide to the board written notice, including an unredacted copy of the judgment of conviction or sentence, of any criminal conviction of the wholesale distributor, any owner of the wholesale distributor, or facility manager, if the conviction is related to prescription drug distribution. The term “criminal conviction” includes instances when the judgment of conviction or sentence is deferred.

657—17.18(155A) Discipline. Pursuant to 657—Chapter 36, the board may fine, suspend, revoke, or impose other disciplinary sanctions on a wholesale distributor license for any of the following:

1. Any violation of the federal Food, Drug, and Cosmetic Act or federal regulation promulgated under the Act. A warning letter issued by the United States Food and Drug Administration shall be conclusive evidence of a violation.
2. Any conviction of a crime related to the distribution of prescription drugs committed by the wholesale distributor, its owners, or the facility manager.

PHARMACY BOARD[657](cont'd)

3. Refusing access to the wholesale distribution facility or records to an agent of the board for the purpose of conducting an inspection or investigation.
4. Failure to maintain registration pursuant to 657—Chapter 10 when distributing controlled substances into, out of, or within this state.
5. Any act of unethical or unprofessional conduct by an employee of the wholesale distributor.
6. Any violation of Iowa Code chapter 124, 126, 155A, or 205, or rule of the board, including the disciplinary grounds set forth in 657—Chapter 36.

These rules are intended to implement Iowa Code sections 124.301 through 124.308, 126.3, 126.9 through 126.12, 155A.4, 155A.19, 155A.21, 155A.23, and 155A.40; Iowa Code sections 155A.3 and 155A.17 as amended by 2018 Iowa Acts, Senate File 2298; and the federal Drug Supply Chain Security Act.

ARC 3975C**PHARMACY BOARD[657]****Notice of Intended Action****Proposing rule making related to limited distributor licenses and providing an opportunity for public comment**

The Pharmacy Board hereby proposes to adopt new Chapter 42, “Limited Distributor Licenses,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.76 and 155A.42.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 124.301 to 124.308, 126.3, 126.9 to 126.12, 126.22, 155A.4, 155A.13, 155A.21, and 155A.23 and sections 155A.3, 155A.17, and 155A.42 as amended by 2018 Iowa Acts, Senate File 2298.

Purpose and Summary

Pursuant to Iowa Code section 155A.42, the Board proposes this new chapter to establish the minimum standards for entities that are engaged in the distribution of prescription drugs and devices but that do not meet the definition of a wholesale distributor. The proposed rules address licensure and renewal processes, grounds for licensure denial, required policies and procedures, facility and operation requirements, records requirements, reporting of discipline or convictions, and grounds for discipline.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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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 18, 2018. Comments should be directed to:

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

Public Hearing

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

September 25, 2018	Shared Conference Room, Suite E
9 a.m.	400 S.W. 8th Street
	Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following **new** 657—Chapter 42:

CHAPTER 42
LIMITED DISTRIBUTOR LICENSES

657—42.1(155A) Purpose and scope. The purpose of this chapter is to establish the minimum standard of practice for limited drug and device distribution in the state of Iowa. This chapter applies to a person who is involved in the distribution of drugs and devices but who does not meet the definition of a wholesale distributor under federal or state law. In addition to the rules of the board, any distribution of prescription drugs and devices shall be in compliance with all applicable federal and state laws and regulations.

657—42.2(155A) Definitions. In addition to the definitions found in Iowa Code section 155A.3 as amended by 2018 Iowa Acts, Senate File 2298, which are adopted for the purposes of this chapter, the following definitions shall apply:

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

“*Distribute*” means the delivery or transfer of a prescription drug or device from one person to another.

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“*Facility manager*” means the individual responsible for managing the daily operations of the limited distributor facility.

“*Limited distributor*” means a person operating or maintaining a location, regardless of the location, where prescription drugs or devices are manufactured, repackaged, distributed at wholesale, or distributed to a patient pursuant to a prescription drug order, who is not eligible for a wholesale distributor license or a pharmacy license. Included in the definition of “limited distributor” are the activities identified in subrule 42.3(1).

657—42.3(155A) Limited distributor license. Beginning January 1, 2019, no person other than a licensed wholesale distributor, licensed pharmacy, or practitioner shall engage in any of the activities found herein in this state without a limited distributor license. Where operations are conducted at more than one location by a single distributor, each location shall be separately licensed. The applicant shall submit a completed application along with a nonrefundable fee of \$175. A limited distributor that engages in distribution of controlled substances into, out of, or within this state shall also obtain a controlled substances Act registration pursuant to 657—Chapter 10.

42.3(1) License required. A person engaged in the following activities shall obtain a limited distributor license prior to distribution in or into Iowa:

- a. Distribution of a medical gas or device at wholesale or to a patient pursuant to a prescription drug order.
- b. Wholesale distribution of a prescription animal drug.
- c. Wholesale distribution of a prescription drug, or brokering the distribution of a prescription drug at wholesale, by a manufacturer, a manufacturer’s co-licensed partner, or a repackager.
- d. Intracompany distribution of a prescription drug, including pharmacy chain distribution centers.
- e. Distribution at wholesale of a combination product as defined by the United States Food and Drug Administration, medical convenience kit, intravenous fluid or electrolyte, dialysis solution, radioactive drug, or irrigation or sterile water solution to be dispensed by prescription only.
- f. Distribution of a dialysis solution by the manufacturer or the manufacturer’s agent to a patient pursuant to a prescription drug order, provided that a licensed pharmacy processes the prescription drug order.

42.3(2) License optional. A person engaged in the following activities may, but is not required to, obtain a limited distributor license for distribution in or into Iowa:

- a. Distribution of nonprescription drugs or devices with or without a patient-specific prescription.
- b. Distribution of medical devices exclusively to a health care practitioner for use in the normal course of professional practice (“professional use”).
- c. Distribution of blood and blood products that are not subject to the federal Drug Supply Chain Security Act (DSCSA).

42.3(3) Application. The applicant shall complete an application which requires demographic information about the limited distributor, ownership information, information about the limited distributor’s registered agent located in Iowa, information about the limited distributor’s licensure with other state and federal regulatory authorities, criminal and disciplinary history information, information regarding the facility manager, and a detailed description of the services to be provided in this state. An application for a limited distributor license, including an application for registration pursuant to 657—Chapter 10, if applicable, will become null and void if the applicant fails to complete the licensure process, including opening for business, within six months of receipt by the board of the required application(s). The following shall also be submitted by the applicant for the application to be considered complete:

- a. Evidence of the mandatory physical inspection of the distribution facility pursuant to subrule 42.3(7).
- b. Attestation by facility manager. The applicant shall submit attestation that the facility manager has adequate experience in prescription drug and device distribution; is actively involved in the daily operation of the distribution facility; maintains a functional understanding of federal and state laws, rules, and regulations pertaining to drug and device distribution, as applicable; and has no felony convictions

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or convictions related to prescription drug and device distribution, including distribution of controlled substances.

42.3(4) License renewal. A limited distributor license shall be renewed before January 1 of each year and may be renewed as early as November 1 prior to expiration. The limited distributor shall submit a completed application and nonrefundable application fee as required in this rule.

a. Delinquent license grace period. If a limited distributor license has not been renewed or canceled prior to expiration, the license becomes delinquent on January 1. A limited distributor that submits a completed license renewal application, nonrefundable application fee, and nonrefundable late penalty fee of \$175 postmarked or delivered to the board by January 31 shall not be subject to disciplinary action for continuing to provide services in this state in the month of January.

b. Delinquent license reactivation beyond grace period. If a limited distributor license has not been renewed prior to the expiration date of the one-month grace period identified in paragraph 42.3(4)“a,” the limited distributor may not operate or do business in Iowa, unless the activities conducted are those identified in subrule 42.3(2). A limited distributor that continues to do business in Iowa without a current license as required in subrule 42.3(1) may be subject to disciplinary sanctions pursuant to the provisions of 657—subrule 36.6(2). A limited distributor without a current license may apply for reactivation by submitting a license application for reactivation and a nonrefundable reactivation fee of \$500. As part of the reactivation application, the limited distributor shall disclose the services, if any, that were provided in this state while the license was delinquent.

42.3(5) License changes. If a distributor has a change of name, ownership, or location, a limited distributor license application with a nonrefundable application fee as provided in subrule 42.3(3) shall be submitted to the board. A change of ownership occurs when the owner listed on the limited distributor’s most recent application changes or when there is a change affecting the majority ownership interest of the owner listed on the limited distributor’s most recent application. A change of limited distributor location within Iowa, if the new location was not a licensed limited distributor immediately prior to the relocation, shall require a self-inspection as provided in subrule 42.3(7). A limited distributor that has submitted a license change application may continue to service Iowa customers while its license change is pending final approval.

a. For a distributor located in Iowa, a completed application shall be submitted to the board as far in advance as possible prior to the change of name, ownership, or location.

b. For a distributor located outside of Iowa:

(1) If the home state licenses or registers the facility, a completed application shall be submitted within ten days of receipt of an updated license or registration from the home state.

(2) If the home state does not license or register the facility, a completed application shall be submitted as far in advance as possible prior to the change of name, ownership, or location.

c. When a distributor changes its name or location, the distributor shall provide advance written notice of the change to each Iowa customer and patient.

d. Applications for license changes shall be timely submitted pursuant to this subrule. A licensed limited distributor that has timely submitted a license change application and fee may continue to service Iowa customers while the license change is pending final approval. An applicant that has submitted an application for license changes after the required date of submission pursuant to this subrule but within 30 days of the required date of submission shall be assessed a nonrefundable late penalty fee of \$175 in addition to the license fee. An applicant that has submitted an application for license changes 31 days or later following the required date of submission pursuant to this subrule shall be assessed a nonrefundable reactivation fee of \$500.

42.3(6) License cancellation. If a limited distributor intends to discontinue service into, out of, or within this state, it shall:

a. Notify the board as far in advance as possible of the limited distributor’s intent to discontinue services and shall request that the license be administratively canceled. The notification shall include the name, address, and Iowa license number of the pharmacy or distributor at which prescription, patient, and distribution records will be maintained.

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b. Ensure that prescription and patient records are transferred to another Iowa-licensed distributor or pharmacy.

c. To the extent possible to avoid unnecessary delays in the availability of services to Iowa customers and patients, provide advance written notice to customers and patients of the date that the distributor intends to cease provision of services.

42.3(7) *Inspection of limited distributor facility.* Each limited distributor location seeking initial or renewal licensure shall, prior to issuance of a license certificate, complete and submit for evaluation a self-inspection packet provided by the board.

657—42.4 and 42.5 Reserved.

657—42.6(155A) Grounds for denial. The board may deny a limited distributor license application, or refuse to renew a license, for any of the following:

1. Any criminal convictions of the applicant related to the distribution of drugs or devices;
 2. Any felony convictions of the applicant;
 3. Insufficient experience in the distribution of prescription drugs or devices, including a lack of knowledge regarding the requirements of applicable federal and state laws or regulations;
 4. The furnishing of false or fraudulent material;
 5. Suspension, revocation, or other disciplinary action taken by the licensing authority of another state or federal agency against any license or registration currently or previously held by the applicant;
 6. Noncompliance with licensing requirements under previously granted licenses, if any;
 7. Noncompliance with the requirements to maintain or make available to the board, its agents, or to federal, state, or local law enforcement officials those records required to be maintained;
 8. Conducting transactions with a person that is not properly licensed, registered, or authorized;
- and
9. Any other factors or qualifications the board considers relevant to and consistent with public health and safety.

657—42.7(155A) Policies and procedures.

42.7(1) Distributors shall have for all aspects of the distributor's operation policies and procedures that, at a minimum, address the rules in this chapter and any other applicable federal, state, and local laws, rules, and regulations.

42.7(2) The policies shall address, at a minimum:

- a. Security of the facility and of patient information;
- b. Storage of products, including proper storage conditions and handling of outdated, recalled, and returned products;
- c. Records, including the retention period for all required records;
- d. Security, storage and records for products in the possession of a distributor's authorized representative; and
- e. Employment of personnel with education and experience appropriate to the responsibilities of the position held.

657—42.8 and 42.9 Reserved.

657—42.10(155A) Requirements.

42.10(1) *Physical requirements.* A distributor's location shall:

- a. Be of suitable size and construction to facilitate cleaning, maintenance, and proper operations;
- b. Have storage areas designed to provide adequate lighting, ventilation, temperature, sanitation, humidity, space, equipment, and security conditions;
- c. Have a quarantine area for storage of outdated, damaged, unsafe, deteriorated, misbranded, or adulterated products and for any suspect products;
- d. Be maintained in a clean and orderly condition;
- e. Be free from infestation by insects, rodents, birds, or vermin of any kind.

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42.10(2) Operation requirements. Distributors shall operate in compliance with all applicable federal, state, and local laws, rules, and regulations.

a. Purchasing. Distributors shall purchase products from a legitimate source that is properly licensed in the state in which it is located and that is properly licensed in the distributor's home state, if such licensure is required. Distributors shall exercise due diligence in determining the legitimacy of a product's source and maintain documentation of the distributor's verification of the legitimate source.

b. Examination of materials. Distributors shall ensure, upon receipt and prior to distribution, that a product is suitable for distribution.

c. Verification. Qualified personnel shall verify, prior to distribution, that the product matches the order for which the product is being distributed.

d. Instructions for use. Qualified personnel shall provide to the patient or the patient's caregiver adequate instructions for use when a product is distributed pursuant to a prescription order.

657—42.11 Reserved.

657—42.12(155A) Records. Distributors shall establish and maintain records of all transactions regarding the receipt and distribution or other disposition of products, including outdated, damaged, deteriorated, misbranded, or adulterated products.

42.12(1) Transaction records. Records for receipt and distribution transactions for all products shall include the following information:

a. The source of the products, including the name and principal address of the seller or transferor and the address of the location from which the products were shipped;

b. The identity and quantity of the products received or distributed;

c. The date of receipt or distribution of the products; and

d. The identity of the purchaser of the products, including the name and principal address of the purchaser or transferee and the address to which the products were shipped or distributed.

42.12(2) Prescription order records. Each prescription order that results in the distribution of a product shall be retained, in the original format received, and be available for inspection and copying by the board, its representative, or other authorized individual for at least two years from the date of last activity of the prescription order.

a. Prescription orders shall contain all the required elements identified in Iowa Code section 155A.27.

b. Prescription orders for noncontrolled prescription drugs shall be valid for no longer than 18 months following the date issued or 13 fills, whichever is less.

c. A one-month supply of a medical gas, such as oxygen, shall be considered to be a single refill. Such prescription must be reissued at least every 13 months.

d. Prescription orders for controlled substances shall be valid for no longer than six months following the date issued or six fills, whichever is less.

42.12(3) Records maintained. All records generated pursuant to the distributor's policies and procedures, this chapter, and all federal, state, and local rules, laws and regulations shall be maintained, readily retrievable, and available for inspection and copying by the board, its representative, or other authorized individual for at least two years from the date of the record.

42.12(4) Confidentiality of patient information. Any patient information in the possession of a distributor shall be maintained in compliance with the patient confidentiality and security requirements of 657—Chapter 8, 657—Chapter 21, and federal law.

657—42.13 Reserved.

657—42.14(155A) Reporting discipline and criminal convictions. No later than 30 days after the final action, a limited distributor shall provide to the board written notice, including an unredacted copy of the action or order, of any disciplinary or enforcement action imposed by any licensing or regulatory authority on any license or registration held by the distributor. Discipline may include, but is not limited

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to, fine or civil penalty, citation or reprimand, probationary period, suspension, revocation, and voluntary surrender. No later than 30 days after the conviction, a limited distributor shall provide to the board written notice, including an unredacted copy of the judgment of conviction or sentence, of any criminal conviction of the distributor, any owner of the distributor, or any individual responsible for managing the daily operations of the distribution facility, if the conviction is related to prescription drug or device distribution. The term “criminal conviction” includes instances when the judgment of conviction or the sentence is deferred.

657—42.15(155A) Discipline. Pursuant to 657—Chapter 36, the board may fine, suspend, revoke, or impose other disciplinary sanctions on a limited distributor license for any of the following:

1. Any violation of the federal Food, Drug, and Cosmetic Act or federal regulation promulgated under the Act. A warning letter issued by the United States Food and Drug Administration shall be conclusive evidence of a violation.
2. Any conviction of a crime related to the distribution of prescription drugs or devices committed by the distributor, its owners, or the facility manager.
3. Refusing access to the distribution facility or records to an agent of the board for the purpose of conducting an inspection or investigation.
4. Failure to maintain registration pursuant to 657—Chapter 10 when distributing controlled substances into, out of, or within this state.
5. Any act of unethical or unprofessional conduct by an employee of the distributor.
6. Any violation of Iowa Code chapter 124, 126, 155A, or 205, or rule of the board, including the disciplinary grounds set forth in 657—Chapter 36.

These rules are intended to implement Iowa Code sections 124.301 through 124.308, 126.3, 126.9 through 126.12, 126.22, 155A.4, 155A.13, 155A.21, and 155A.23 and sections 155A.3, 155A.17, and 155A.42 as amended by 2018 Iowa Acts, Senate File 2298.

ARC 3976C

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rule making related to third-party logistics provider licenses and providing an opportunity for public comment

The Pharmacy Board hereby proposes to adopt new Chapter 43, “Third-Party Logistics Provider Licenses,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76 and 2018 Iowa Acts, Senate File 2298.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 124B and sections 124.301 to 124.308, 126.3, 126.9 to 126.12, 155A.3, 155A.4 and 155A.40; 2018 Iowa Acts, Senate File 2298; and the Drug Supply Chain Security Act.

Purpose and Summary

Pursuant to 2018 Iowa Acts, Senate File 2298 [Iowa Code section 155A.17A], the Board proposes this new chapter to establish the minimum standards for entities engaged in third-party logistics of prescription drugs and devices as established in the Drug Supply Chain Security Act (DSCSA), enacted by Congress in November 2013. The proposed rules address licensure and renewal processes, required

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policies and procedures, required reporting of discipline and convictions, and grounds for disciplinary action.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on September 18, 2018. Comments should be directed to:

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

Public Hearing

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

September 25, 2018	Shared Conference Room, Suite E
9 a.m.	400 S.W. 8th Street
	Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

PHARMACY BOARD[657](cont'd)

Adopt the following **new** 657—Chapter 43:

CHAPTER 43
THIRD-PARTY LOGISTICS PROVIDER LICENSES

657—43.1(87GA,SF2298) Purpose and scope. The purpose of this chapter is to establish the minimum standards required of third-party logistics providers as defined in 2018 Iowa Acts, Senate File 2298, section 6, in this state pursuant to national standards as established by federal law. This chapter applies to logistics providers operating in or into this state. A 3PL does not include an entity that solely engages in shipping activities. Applicable activities of a 3PL include, but are not limited to, picking, packing, and shipping; inventory management; and warehousing or distribution management. In the event the requirements of this chapter directly conflict with any federal law or regulation, the federal law or regulation shall supersede the requirements in this chapter.

657—43.2(87GA,SF2298) Definitions. For the purposes of this chapter, the definitions found in Iowa Code section 155A.3 as amended by 2018 Iowa Acts, Senate File 2298, and the following definitions apply.

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

“*Facility manager*” means the individual who is responsible for the daily operation of a third-party logistics licensed location.

“*FDA*” means the United States Food and Drug Administration.

“*Home state*” means the state in which a third-party logistics provider is located.

“*Third-party logistics provider*” or “*3PL*” means an entity that provides or coordinates warehousing or other logistics services of a product in interstate commerce on behalf of a manufacturer, wholesale distributor, or dispenser of a product, but does not take ownership of the product nor have responsibility to direct the sale or other disposition of the product.

657—43.3(87GA,SF2298) 3PL license. Beginning April 1, 2019, every 3PL as defined in rule 657—43.2(87GA,SF2298), wherever located, that provides or coordinates warehousing or other logistics services of products into, out of, or within this state must be licensed by the board in accordance with the laws and rules of Iowa before engaging in such logistics operations. Where activities are conducted at more than one location by a single 3PL, each location shall be separately licensed. The applicant shall submit a completed application with a nonrefundable application fee of \$750. A 3PL that handles controlled substances shall also obtain a controlled substances Act registration pursuant to 657—Chapter 10.

43.3(1) Application. The applicant shall complete an application which requires demographic information about the 3PL, ownership information, information about the 3PL’s registered agent located in Iowa, information about the 3PL’s licensure or registration with other state and federal regulatory authorities, criminal and disciplinary history information, and a description of the scope of services to be provided in Iowa. If the applicant is not located in Iowa, the applicant shall submit evidence that the applicant has a valid license or registration in the home state or evidence of licensure with the federal Food and Drug Administration (FDA). The applicant shall provide evidence of current verified-accredited wholesale distributors (VAWD) accreditation by the National Association of Boards of Pharmacy. This requirement does not apply to new applicants located in Iowa which must undergo an opening inspection by a board compliance officer or agent of the board prior to issuance of an initial license pursuant to subrule 43.3(3). 3PL distributors located in Iowa shall provide evidence of VAWD accreditation on or before license renewal. An application for a 3PL license, including an application for registration pursuant to 657—Chapter 10, if applicable, will become null and void if the applicant fails to complete the licensure process, including opening for business, within six months of receipt by the board of the required application(s).

43.3(2) Facility manager. The applicant shall attest that the facility manager has adequate experience in providing or coordinating warehousing or other logistics services of products; is actively involved in

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the daily operation of the facility; maintains a functional understanding of federal and state laws, rules, and regulations pertaining to drug and device distribution; and has no felony conviction or convictions related to prescription drug or device distribution, including distribution of controlled substances. Upon receipt of a licensure application, the board shall provide a fingerprint packet to the applicant's facility manager, who shall submit the completed fingerprint packet and a signed waiver form to facilitate a national criminal history background check of the facility manager. The cost of the evaluation of the fingerprint packet and the Iowa division of criminal investigation and the United States Federal Bureau of Investigation criminal history background checks will be assessed to the applicant.

43.3(3) Inspection of new 3PL facility. Each new 3PL location seeking licensure shall be inspected prior to issuance of a license.

a. Iowa location. If the applicant is located within Iowa, an inspection shall be conducted by the board or its authorized agent prior to issuance of the license and periodically thereafter.

b. Nonresident location. If the applicant is located outside of Iowa, an inspection shall be conducted by the applicant's home state regulatory authority or another board-approved inspecting authority and a report of such inspection shall be submitted with the application. The application shall also include evidence of corrective action taken to satisfy any deficiencies identified in the inspection report and compliance with all legal directives of the inspecting authority, if applicable. With each license renewal and license reactivation for a 3PL outside of Iowa, the application shall include a copy of the most recent inspection report issued as a result of an inspection conducted by the home state regulatory authority or other board-approved inspecting authority.

43.3(4) License renewal. The 3PL license shall be renewed by April 1 each year. The 3PL shall submit the completed license application and nonrefundable application fee of \$750. A 3PL may renew its license beginning February 1 prior to license renewal. An initial 3PL license issued between February 1 and March 31 shall not require renewal until the following calendar year.

a. Delinquent license grace period. If a 3PL license has not been renewed or canceled prior to expiration, but the 3PL is in the process of renewing the license, the license becomes delinquent on April 1. A 3PL that submits a completed license renewal application, nonrefundable application fee, and nonrefundable late penalty fee of \$750 postmarked or delivered to the board by April 30 shall not be subject to disciplinary action for continuing to provide services to Iowa customers in the month of April.

b. Delinquent license reactivation beyond grace period. If a 3PL license has not been renewed prior to the expiration of the one-month grace period identified in paragraph 43.3(4) "a," the 3PL may not continue to provide services to Iowa customers. A 3PL that continues to provide services to Iowa customers without a current license may be subject to disciplinary sanctions. A 3PL without a current license may apply for reactivation by submitting a license application for reactivation and a nonrefundable reactivation fee of \$2,000. As part of the reactivation application, the 3PL shall disclose the services, if any, that were provided to Iowa customers while the license was delinquent.

43.3(5) License changes. When a licensed 3PL changes its name, ownership, location, or facility manager, a completed 3PL license application with nonrefundable fee of \$750 shall be submitted to the board. A change of ownership occurs when the owner listed on the 3PL's most recent application changes or when there is a change affecting the majority ownership interest of the owner listed on the 3PL's most recent application. A change of 3PL location within Iowa, if the new location was not a licensed 3PL immediately prior to the relocation, shall require an on-site inspection of the new location as provided in subrule 43.3(3). A 3PL that has submitted a license change application may continue to service Iowa customers while its license change is pending final approval.

a. Locations in Iowa. An application for license change shall be submitted to the board as far in advance as possible prior to the anticipated change.

b. Locations outside of Iowa. An application for license change shall be submitted to the board within ten days of the 3PL's receipt of an updated license or registration from the home state regulatory authority or the FDA, as applicable.

c. License change application submission. Applications for license changes shall be timely submitted pursuant to this subrule. A licensed 3PL that has timely submitted a license change application and fee may continue to service Iowa customers while the license change is pending final

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approval. An applicant that has submitted an application for license changes after the required date of submission pursuant to this subrule but within 30 days of the required date of submission shall be assessed a nonrefundable late penalty fee of \$750 in addition to the license fee. An applicant that has submitted an application for license changes 31 days or later following the required date of submission pursuant to this subrule shall be assessed a nonrefundable reactivation fee of \$2,000.

43.3(6) License cancellation. If a 3PL intends to discontinue service into, out of, or within this state, the licensee shall notify the board and shall request that the license be administratively canceled.

657—43.4 Reserved.

657—43.5(87GA,SF2298) Compliance with federal and state laws. A 3PL is responsible for complying with all applicable federal and state laws, including those not specifically identified in this chapter.

1. A licensed 3PL shall meet the requirements set forth in Section 582 of the Drug Supply Chain Security Act, 21 U.S.C. §360eee-3, relating to third-party logistics and regulations promulgated thereunder.

2. A licensed 3PL shall permit agents of the board to enter and inspect the facility for compliance with federal and state laws. A licensed 3PL shall cooperate with other regulatory or law enforcement officials with jurisdiction over the facility.

657—43.6(87GA,SF2298) Policies and procedures. A licensed 3PL shall establish, maintain, and adhere to written policies and procedures that are in compliance with standards established pursuant to federal and Iowa law and which address, at a minimum, the following:

1. Storage practices;
2. Maintaining adequate security;
3. Receipt, inventory, shipment, and distribution of product;
4. Theft or loss;
5. Inventory errors and inaccuracies;
6. Manufacturer recalls and withdrawals;
7. Emergency and disaster plan;
8. Records, including the retention period for all required records;
9. Drug diversion detection and prevention; and
10. Outdated, adulterated, or suspect products.

657—43.7 and 43.8 Reserved.

657—43.9(87GA,SF2298) Reporting discipline and criminal conviction. No later than 30 days after the final action, a 3PL shall provide to the board written notice, including an unredacted copy of the action or order, of any disciplinary sanction imposed on any license or registration held by the 3PL or its owner or owners. Discipline may include, but is not limited to, fine or civil penalty, citation or reprimand, probationary period, suspension, revocation, and voluntary surrender. No later than 30 days after the conviction, a 3PL shall provide to the board written notice, including an unredacted copy of the judgment of conviction or sentence, of any criminal convictions related to product distribution, including convictions of any of its owners, or its facility manager. The term “criminal conviction” includes instances when the judgment of conviction or the sentence is deferred.

657—43.10(87GA,SF2298) Discipline. Pursuant to 657—Chapter 36, the board may fine, suspend, revoke, or impose other disciplinary sanctions on a 3PL license for any of the following:

1. Any violation of the federal Food, Drug, and Cosmetic Act or federal regulation promulgated under the Act related to third-party logistics and drug or device distribution.
2. Any conviction of a crime related to the distribution of prescription drugs or devices committed by the 3PL, its owners, or the facility manager.

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3. Refusing access to the 3PL facility or records to an agent of the board or other authorized regulatory authority for the purpose of conducting an inspection or investigation.
4. Failure to maintain registration pursuant to 657—Chapter 10 when distributing controlled substances into, out of, or within this state.
5. Any act of unethical or unprofessional conduct by an employee of the 3PL.
6. Any violation of Iowa Code chapter 124, 126, 155A, or 205, or rule of the board, including the disciplinary grounds set forth in 657—Chapter 36.

These rules are intended to implement Iowa Code sections 124.301 through 124.308, 124B, 126.3, 126.9 through 126.12, 155A.3, 155A.4, and 155A.40; 2018 Iowa Acts, Senate File 2298; and the federal Drug Supply Chain Security Act.

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA

Public Notice

NOTICE OF OFFICIAL CONTRACT LIMITATION AMOUNT ADJUSTMENT FOR THE PERIOD COMMENCING SEPTEMBER 1, 2018, AND ENDING AUGUST 31, 2019

In accordance with Iowa Code section 8D.11, subsection 1, paragraph “c,” the Iowa Telecommunications and Technology Commission’s (Iowa Communications Network) Executive Director hereby publishes the official adjusted contract limitation amount for the period commencing on September 1, 2018, and ending on August 31, 2019, of \$2,423,070.50.

The adjusted contract limitation amount becomes effective on September 1, 2018. The amount was determined by applying the formula specified in the statute. According to the federal Department of Labor, Bureau of Labor Statistics, the consumer price index for all urban consumers increased 2.9 percent from June 2017 to June 2018.

Pursuant to Iowa Code section 8D.11, subsection 1, paragraph “c,” this notice is exempt from the rule-making process in Iowa Code chapter 17A.

Questions with respect to this notice should be directed to:

ICN Executive Director
Iowa Telecommunications and Technology Commission
400 E. 14th Street
Des Moines, Iowa 50319
Telephone: 515.725.4692

DEPARTMENT OF TRANSPORTATION

Advisory Notice

Adjusted Competitive Bid and Quotation Thresholds for Vertical Infrastructure Public Improvements

Pursuant to the authority of Iowa Code section 314.1B, the Director of Transportation gives an advisory notice of adjusted competitive bid and quotation thresholds for vertical infrastructure public improvements. The adjusted competitive bid and quotation threshold values will become effective January 1, 2019.

The vertical infrastructure bid threshold subcommittee, composed of three contractors, three representatives of public entities and the Director’s designee, held a meeting on July 23, 2018, to review

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competitive bid and quotation thresholds. The vertical infrastructure bid threshold subcommittee made the following adjustments to the competitive bid and quotation thresholds listed in Iowa Code sections 26.3 and 26.14.

1. The competitive bid threshold will be adjusted to \$139,000 effective January 1, 2019.
2. The competitive quotation threshold for counties, including county hospitals, will be adjusted to \$103,000 effective January 1, 2019.
3. The competitive quotation threshold for cities having a population of 50,000 or more will be adjusted to \$77,000 effective January 1, 2019.
4. The competitive quotation threshold for school districts having a population of 50,000 or more will be adjusted to \$77,000 effective January 1, 2019.
5. The competitive quotation threshold for aviation authorities created within cities having a population of 50,000 or more will be adjusted to \$77,000 effective January 1, 2019.
6. The competitive quotation threshold for cities having a population of less than 50,000, for school districts having a population of less than 50,000, and for other governmental entities will be adjusted to \$57,000 effective January 1, 2019.

ARC 3967C**TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rule making related to sanctions and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 615, "Sanctions," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12, 321.210, 321.210A, 321.210D and 321A.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.177, 321.210, 321.210A, 321.210C, 321.210D, 321.218, 321.276, 321.372, 321A.2 and 321J.21; section 321.212 as amended by 2018 Iowa Acts, House File 2502, section 96; section 321.215 as amended by 2018 Iowa Acts, House File 2502, section 97; and section 321.323A as amended by 2018 Iowa Acts, House File 2304, sections 1 to 4.

Purpose and Summary

This rule making proposes amendments to Chapter 615, which addresses the Department's rules regarding driver's license sanctions. In general, the amendments update an outdated office name, contact information, form references and legal references; eliminate irrelevant and redundant language to improve clarity; remove requirements that no longer match current business practices; make corrections that update rules to statutory requirements; implement legislation that affects sanctions for violations of Iowa's "slow down, move over" law; and implement legislation that ends the practice of imposing driving sanctions for drug convictions unrelated to the operation of a motor vehicle. The proposed amendments do not otherwise change any existing sanction or appeal processes. The following paragraphs describe the proposed amendments in more detail.

Definitions. The proposed amendments make changes to definitions currently included in Chapter 615. First, the proposed amendments strike redundant language and establish a single definition for the terms "contributive accident" and "contributed to an accident." These terms are relevant to whether a person should be sanctioned as a habitually reckless or negligent driver after being involved in multiple motor vehicle accidents under Iowa Code section 321.210 and rule 761—615.12(321) or for a serious

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conviction after being involved in a fatal motor vehicle accident under Iowa Code section 321.210 and 761—paragraph 615.17(2)“b,” or should be referred to remedial driver improvement after being involved in a motor vehicle accident as a young driver under Iowa Code section 321.180B and rule 761—615.42(321). The proposed amendments do not change the meaning of the terms or the standards by which the sanctions are imposed, but only eliminate repeating the same definition in several places throughout the chapter.

Second, the proposed amendments rescind the definition of the term “conviction free.” As the current definition indicates, the definition is only relevant to terms used in Iowa Code section 321.180B, which governs graduated driver’s licenses issued to persons aged 14 to 17. The term is not used in or relevant to any other provisions in Chapter 615, and removing the definition will have no impact on any sanction imposed under this chapter.

Periods of suspension or revocation. The proposed amendments clarify that rule 761—615.11(321) regarding the length of time a sanction may be imposed applies both to suspensions and to revocations. The current version of this rule refers only to suspensions, but the authorizing Iowa Code sections the rule implements (Iowa Code sections 321.212 and 321.218) govern both suspensions and revocations. The words “or revocation” are added throughout the rule to accurately reflect the statute, but the sanctions or periods of sanctions otherwise imposed under this chapter do not change. The proposed amendments also update rule 761—615.11(321) to properly reflect the content of Iowa Code section 321.218, which provides that the Department, upon receiving notice that a person has been convicted of operating a motor vehicle while the person’s license is suspended or revoked, shall extend the period of suspension or revocation for an additional like period or for one year, whichever period is shorter. Although the Department has been properly implementing this part of Iowa Code section 321.218, the rule did not properly reflect that the extension should be limited to the shorter of an additional like period or one year. The proposed amendment corrects this.

In conjunction with this change, the proposed amendments also clarify that rule 761—615.11(321) does not apply to the extension of operating while intoxicated (OWI) sanctions, which is instead governed by rule 761—615.32(321). Rule 761—615.32(321) implements Iowa Code section 321J.21, which requires the Department to extend the period of license suspension, denial, revocation, or bar for an additional like period and which prohibits the Department from issuing a person a new license during the additional like period when the person is convicted of operating a motor vehicle while the person’s license is suspended, revoked, denied or barred for an OWI offense under Iowa Code chapter 321J. Iowa Code section 321J.21, unlike Iowa Code section 321.218, does not limit the extension of the additional like period to the shorter of the like period or one year, and accordingly it should remain clear that rule 761—615.32(321) separately governs extensions of sanctions for OWI offenses. Again, the Department has been correctly implementing Iowa Code section 321J.21, but the proposed amendment will ensure that the content of the rule properly aligns to the content of Iowa Code section 321J.21.

Suspension of habitual violators. Consistent with Iowa Code section 321.276(4)“b,” which provides that convictions for use of an electronic communication device under Iowa Code section 321.276 shall not be considered a moving violation for purposes of Iowa Code chapter 321 or rules adopted under Iowa Code chapter 321, the proposed amendments add violations of Iowa Code section 321.276 to the list of violations that shall not be used to determine whether a person should be deemed a habitual violator under Iowa Code section 321.210 and rule 716—615.13(321).

Violations of corresponding municipal ordinances. Under Iowa Code section 321.235, local authorities may adopt traffic regulations which are not in conflict with the provisions of Iowa Code chapter 321. Under this authority, many municipalities have, by ordinance, established traffic codes that include traffic regulations that correspond to traffic regulations established in Iowa Code chapter 321, and when a driver is cited in a municipality with such an ordinance, the citation and conviction are entered under the local ordinance rather than the corresponding section of Iowa Code chapter 321. Under Iowa Code section 321.491, the clerk of court is required to report to the Department all records of convictions for violations of Iowa Code chapter 321 or other laws regulating the operation of vehicles on highways, and under Iowa Code section 321.200, the Department is required to enter each conviction reported on the corresponding driver’s record and to consider each conviction when

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determining whether a driver is eligible for a driver's license or should be sanctioned. Under this authority, the clerk of court reports to the Department all convictions for traffic violations, regardless of whether convictions are written under Iowa Code chapter 321 or under a corresponding municipal ordinance, and the Department then enters each conviction on the driver's record and considers each conviction accordingly.

Despite this, in certain instances the manner in which the Department has phrased its administrative rules regarding sanctions has caused administrative law judges to disregard convictions for traffic violations written under a corresponding municipal ordinance and rescind an otherwise appropriate sanction, under the rationale that the administrative rule specified that the sanction only applied to a person convicted of violating a specified section of Iowa Code chapter 321 and a conviction written under a corresponding municipal ordinance was not a conviction under the specific section of Iowa Code chapter 321. To ensure that licensing and sanction decisions for like conduct and violations remain consistent regardless of whether the conviction was entered under a section within Iowa Code chapter 321 or a corresponding municipal ordinance, the proposed amendments specify that the sanction may be imposed if a person is convicted of the specified section of Iowa Code chapter 321 "or a similar ordinance of any political subdivision." The proposed amendments affect rules imposing sanctions for illegally passing a stopped school bus, as required by Iowa Code section 321.372(3), and for violating Iowa's "slow down, move over" law, as required by Iowa Code section 321.323A. The proposed amendments do not change the required sanctions and do not in any way implicate civil penalties entered against a vehicle owner under automated traffic enforcement ordinances, which are not criminal traffic convictions and are not reported to Iowa's courts or to the Department.

"Slow down, move over" law. The proposed amendments add convictions for violations of Iowa Code section 321.323A that result in damage to the property of another person or bodily injury to or death of another person, as a qualifying serious violation under rule 761—615.17(321). Iowa Code section 321.323A, often referred to as Iowa's "slow down, move over" law, requires a driver approaching a stationary vehicle displaying authorized flashing lights or emergency signal lamps to approach the vehicle with due caution and, absent any other direction by a peace officer, either make a lane change into a lane not adjacent to the stationary motor vehicle if possible in the existing safety and traffic conditions, or, if a lane change would be impossible, prohibited by law, or unsafe, reduce the speed of the motor vehicle to a reasonable and proper speed for the existing road and traffic conditions, which speed shall be less than the posted speed limit, and be prepared to stop. The proposed amendments conform the rules to Iowa Code section 321.323A as amended by 2018 Iowa Acts, House File 2304, sections 1 to 4, which requires the Department to suspend the license of a person convicted of a violation of Iowa Code section 321.323A for 90 days if the violation caused only property damage to another person, for 180 days if the violation caused bodily injury to another person, and for one year if the violation caused the death of another person.

Suspension for moving violations during driving probation. Iowa Code section 321.210C provides that a person who has lost driving privileges for a moving violation under Iowa Code chapter 321 or a comparable moving violation in another jurisdiction, or for an OWI violation under Iowa Code chapter 321J, must satisfactorily complete a 12-month probation period beginning immediately after the end of the period of suspension, revocation, or bar of the person's driving privileges. Under Iowa Code section 321.210C, if the person is convicted of another moving violation committed during the driving probation (excluding the first two speeding violations that are 10 miles per hour or less in speed zones of 35 miles per hour to 55 miles per hour), the Department may suspend the person's driver's license or operating privileges for an additional period equal in duration to the original period of suspension, revocation, or bar, or for one year, whichever is the shorter period. The proposed amendments clarify that the Department's rule implementing Iowa Code section 321.210C applies only to the period of driving probation required under Iowa Code section 321.210C (as opposed to a criminal period of probation imposed by the Iowa courts) and add language that specifies a suspension for violation of a driving probation shall be equal in duration to the original period of suspension, revocation or bar, or for one year, whichever is the shorter period, to ensure the implementing rule matches the content and requirements of Iowa Code section 321.210C.

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Drug revocations. 2018 Iowa Acts, House File 2502, division XXV, section 102, repealed Iowa Code section 901.5(10), which required the Department to revoke the driver's license or motor vehicle operating privileges of a defendant convicted of certain nondriving drug offenses for a period of 180 days or to delay the issuance of a driver's license for 180 days after the person is first eligible if the defendant has not been issued a driver's license. The legislation also eliminated all references to Iowa Code section 901.5(10). To conform the rules with this legislation, the proposed amendments remove all provisions in the Department's rules that implement or reference drug revocations previously required by Iowa Code section 901.5(10). This legislation became effective July 1, 2018, and consistent with its provisions, the Department has ended all drug revocations previously imposed and still in effect as of July 1, 2018, and discontinued the practice of imposing these revocations beginning July 1, 2018.

Appearance before an examiner. The Department's rules regarding reinstatement or reissuance of a driver's license following a period of sanction require a person to "appear before an examiner" to obtain or reinstate the license. This provision is not necessary, as any properly trained issuance staff may help a person reinstate or reissue a license. The proposed amendment strikes outdated language, and the conditions for reinstatement or reissuance remain unchanged.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 18, 2018. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

A public hearing to hear requested oral presentations will be held as follows:

September 20, 2018
10 a.m.

Department of Transportation
Motor Vehicle Division
6310 SE Convenience Boulevard
Ankeny, Iowa

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

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule **761—615.1(321)**, definitions of "Contributive accident" and "Moving violation," as follows:

"*Contributive accident*" or "*contributed to an accident*" means the driver was involved in an accident for which there is evidence in departmental records that the driver performed an act which resulted in or contributed to the accident; or failed to perform an act which would have avoided or contributed to the avoidance of the accident.

"*Moving violation*," unless otherwise provided in this chapter, means any violation of motor vehicle laws except:

1. Violations of equipment standards to be maintained for motor vehicles.
2. Parking violations as defined in Iowa Code section 321.210.
3. Child restraint and safety belt and harness violations under Iowa Code sections 321.445 and 321.446.
4. Violations of registration, weight and dimension laws.
5. Operating with an expired license.
6. Failure to appear.
7. Disturbing the peace with a motor vehicle.
8. Violations of Iowa Code ~~Supplement~~ section 321.20B for failure to provide proof of financial liability coverage.

ITEM 2. Rescind the definition of "Conviction free" in rule **761—615.1(321)**.

ITEM 3. Amend rule 761—615.3(17A) as follows:

761—615.3(17A) Information and address. Applications, forms and information concerning license sanctions are available at any driver's license ~~examination station or at the address in 761—600.2(17A)~~ service center. Assistance is also available by mail from Driver and Identification Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)244-8725; by facsimile at (515)239-1837; or on the department's website at www.iowadot.gov.

This rule is intended to implement Iowa Code section 17A.3.

ITEM 4. Amend rule 761—615.9(321) as follows:

761—615.9(321) Habitual offender.

615.9(1) The department shall declare a person to be a habitual offender under Iowa Code ~~subsection~~ section 321.555(1) in accordance with the following point system:

- a. Points shall be assigned to convictions as follows:

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Conviction	Points
Perjury or the making of a false affidavit or statement under oath to the department of public safety	2 points
Driving while under suspension, revocation or denial (except Iowa Code chapter 321J)	2 points
Driving while under Iowa Code chapter 321J revocation or denial	3 points
Driving while barred	4 points
Operating a motor vehicle in violation of Iowa Code section 321J.2	4 points
An offense punishable as a felony under the motor vehicle laws of Iowa or any felony in the commission of which a motor vehicle is used	5 points
Failure to stop and leave information or to render aid as required by Iowa Code sections 321.261 and 321.263	5 points
Eluding or attempting to elude a pursuing law enforcement vehicle in violation of Iowa Code section 321.279	5 points
Serious injury by a vehicle in violation of Iowa Code subsection 707.6A(3) <u>section 707.6A(4)</u>	5 points
Manslaughter resulting from the operation of a motor vehicle	6 points

b. No change.

615.9(2) No change.

615.9(3) A person declared to be a habitual offender under Iowa Code Supplement section 321.560; ~~unnumbered paragraph 2~~, shall be barred from operating a motor vehicle on the highways of this state beginning on the date the previous bar expires.

This rule is intended to implement Iowa Code sections 321.555, 321.556 and 321.560.

ITEM 5. Amend rule 761—615.11(321) as follows:

761—615.11(321) Periods of suspension or revocation.

615.11(1) Length. The department shall not suspend or revoke a person's license for less than 30 days nor for more than one year unless a statute specifies or permits a different period of suspension or revocation.

615.11(2) Extension of suspension or revocation. The department shall extend the period of license suspension or revocation for an additional like period or for one year, whichever period is shorter, when the person is convicted of operating a motor vehicle while the person's license is suspended or revoked, unless a statutory exception applies. If the person's driving record does not indicate what the original grounds for suspension or revocation were, the period of license suspension or revocation shall not exceed six months.

This rule is intended to implement Iowa Code sections 321.212 and 321.218.

ITEM 6. Amend rule 761—615.12(321) as follows:

761—615.12(321) Suspension of a habitually reckless or negligent driver.

615.12(1) The department may suspend a person's license if the person is a habitually reckless or negligent driver of a motor vehicle.

a. "Habitually reckless or negligent driver" means a person who has accumulated a combination of three or more contributive accidents and convictions for moving violations or three or more contributive accidents within a 12-month period.

b. ~~"Contributive or contributed" means that there is evidence in departmental records that the driver performed an act which resulted in or contributed to an accident, or failed to perform an act which would have avoided or contributed to the avoidance of an accident.~~

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615.12(2) In this rule, ~~the~~ speeding violations specified in Iowa Code ~~paragraph~~ section 321.210(2)“d” and violations under Iowa Code section 321.276 are not included.

615.12(3) No change.

This rule is intended to implement Iowa Code section 321.210.

ITEM 7. Amend subrule 615.13(3) as follows:

615.13(3) In this rule, ~~the~~ speeding violations specified in Iowa Code ~~paragraph~~ section 321.210(2)“d” and violations under Iowa Code section 321.276 are not included.

ITEM 8. Amend paragraph **615.14(1)“c”** as follows:

c. Ineligibility for licensing under Iowa Code ~~subsections~~ sections 321.177(4) to 321.177(7).

ITEM 9. Amend rule 761—615.17(321) as follows:

761—615.17(321) Suspension for a serious violation.

615.17(1) No change.

615.17(2) “*Serious violation*” means that:

a. No change.

b. The person was convicted of a moving violation which contributed to a fatal motor vehicle accident. ~~“Contributed” is defined in paragraph 615.12(1)“b.”~~ The suspension period shall be at least 120 days.

c. No change.

d. The person was convicted of violating Iowa Code ~~subsection~~ section 321.372(3) or a similar ordinance of any political subdivision. The suspension period shall be:

(1) 30 days for a first conviction ~~under Iowa Code subsection 321.372(3)~~.

(2) 90 days for a second conviction ~~under Iowa Code subsection 321.372(3)~~.

(3) 180 days for a third or subsequent conviction ~~under Iowa Code subsection 321.372(3)~~.

e. The person was convicted of violating Iowa Code section 321.323A as amended by 2018 Iowa Acts, House File 2304, sections 1 to 4, or a similar ordinance of any political subdivision. The suspension period shall be:

(1) 90 days for a violation causing property damage only to the property of another person.

(2) 180 days for a violation causing bodily injury to another person.

(3) One year for a violation causing death.

This rule is intended to implement Iowa Code sections 321.210; 321.323A as amended by 2018 Iowa Acts, House File 2304, sections 1 to 4; 321.372; ~~as amended by 2012 Iowa Acts, Senate File 2218, sections 2 and 5;~~ and 321.491.

ITEM 10. Amend rule 761—615.20(321) as follows:

761—615.20(321) Suspension for moving violation during driving probation. The department may suspend the license of a person convicted of a moving violation pursuant to Iowa Code section 321.210C. The suspension period shall ~~not exceed~~ be equal in duration to the original period of suspension, revocation or bar, or for one year, whichever is the shorter period.

This rule is intended to implement Iowa Code section 321.210C.

ITEM 11. Amend subrule 615.22(1), introductory paragraph, as follows:

615.22(1) The department shall suspend a person’s privilege to operate motor vehicles in Iowa when the department is notified by a clerk of the district court ~~on Form No. 431037~~ that the person has been convicted of violating a law regulating the operation of motor vehicles, that the person has failed to pay the fine, penalty, surcharge or court costs arising out of the conviction, and that 60 days have elapsed since the person was mailed a notice of nonpayment from the clerk of the district court.

ITEM 12. Amend rule **761—615.23(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections ~~232.52(2)“a”(4)~~ 232.52(2), 299.1B, 321.213, 321.213A, 321.213B; and 321.215.

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 13. Amend rule 761—615.29(321) as follows:

761—615.29(321) Mandatory revocation.

615.29(1) The department shall revoke a person's license upon receipt of a record of the person's conviction for an offense listed under Iowa Code section 321.209 ~~or upon receipt of an order issued pursuant to Iowa Code subsection 901.5(10).~~

615.29(2) No change.

615.29(3) The revocation period shall be at least one year except:

a. and *b.* No change.

~~*e.* The revocation period for an order issued pursuant to Iowa Code subsection 901.5(10) is 180 days.~~

This rule is intended to implement Iowa Code sections 321.209; 321.212; as amended by 2018 Iowa Acts, House File 2502, section 96; 321.261; and 707.6A.

ITEM 14. Amend rule 761—615.30(321) as follows:

761—615.30(321) Revocation for out-of-state offense.

615.30(1) The department may revoke an Iowa resident's license when the department is notified by another state that the person committed an offense in that state which, if committed in Iowa, would be grounds for revocation. The notice may indicate either a conviction or a final administrative decision. The period of the revocation shall be the same as if the offense had occurred in Iowa.

~~**615.30(2)** Rescinded IAB 11/20/96, effective 12/25/96.~~

This rule is intended to implement Iowa Code section 321.205.

ITEM 15. Amend rule 761—615.32(321) as follows:

761—615.32(321) Extension of suspension, denial, revocation period, or bar under Iowa Code chapter 321J. ~~The~~ Anything in rule 761—615.11(321) notwithstanding, the department shall extend the period of license suspension, denial, revocation, or bar for an additional like period when the person is convicted of operating a motor vehicle while the person's license is suspended, denied, revoked, or barred under Iowa Code chapter 321J.

This rule is intended to implement Iowa Code sections ~~321.218 and~~ section 321J.21.

ITEM 16. Amend paragraph **615.38(1)“a”** as follows:

a. License denials, cancellations and suspensions under Iowa Code sections 321.177 to 321.215 and 321A.4 to 321A.11 ~~except denials under Iowa Code subsection 321.177(10) and suspensions under Iowa Code sections 321.210B, 321.210D, 321.213A and 321.213B.~~

ITEM 17. Amend paragraph **615.38(2)“b”** as follows:

b. A request for an informal settlement, a request for a contested case hearing, or an appeal of a presiding officer's decision shall be submitted to the director of ~~the office of driver and identification services~~ at the address in 761—600.2(17A) rule 761—615.3(17A).

ITEM 18. Amend subrule 615.38(3) as follows:

615.38(3) Informal settlement or hearing.

a. No change.

b. Notwithstanding paragraph “*a*” ~~of this subrule,~~ 615.38(3) “*a*,” a request received from a person who has participated in a driver improvement interview on the same matter shall be deemed a request for a contested case hearing.

c. A request for an informal settlement or a request for a contested case hearing shall be deemed timely submitted if it is delivered to the director of ~~the office of driver and identification services~~ or postmarked within the time period specified in the department's notice of the sanction.

(1) and (2) No change.

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 19. Amend rule 761—615.40(321) as follows:

761—615.40(321) License reinstatement or reissue. ~~A person who becomes eligible for a license after a denial, cancellation, suspension, revocation, bar or disqualification shall be notified by the department to appear before a driver license examiner to obtain or reinstate the license. The license may be issued if the person has:~~ The department may reinstate the license when the denial, cancellation, suspension, revocation, bar or disqualification has ended if the person has:

615.40(1) No change.

615.40(2) Paid the civil penalty when required. The civil penalty is specified in Iowa Code Supplement section 321.218A or 321A.32A.

615.40(3) to 615.40(6) No change.

This rule is intended to implement Iowa Code sections 321.186, 321.191, 321.195, 321.208, 321.212, and 321.218A, 321A.17 and ~~Iowa Code Supplement sections 321.218A and 321A.32A.~~

ITEM 20. Amend rule 761—615.41(321) as follows:

761—615.41(321) Investigation of convictions based on fraud. A person requesting investigation of fraudulent use of a person's name or other fraudulent identification that resulted in a record of conviction for a scheduled violation under Iowa Code chapter 321 and listed in Iowa Code section 805.8A may submit a written application to the department using Form 420049, ~~Identity Theft Complaint~~. The department shall review the application and may investigate, if appropriate, as required by Iowa Code section 321.200A. Form 420049 may be obtained by contacting the ~~bureau of investigation and identity protection by mail at Bureau of Investigation and Identity Protection, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa;~~ or on the department's ~~Web site~~ website.

This rule is intended to implement Iowa Code section 321.200A.

ITEM 21. Amend rule 761—615.45(321) as follows:

761—615.45(321) Temporary restricted license (work permit).

615.45(1) Ineligibility. The department shall not issue a temporary restricted license under Iowa Code ~~subsection section~~ 321.215(1) as amended by 2018 Iowa Acts, House File 2502, section 97, to an applicant:

a. to *i.* No change.

~~*j.* Whose license has been suspended or revoked for a drug or drug-related offense.~~

~~*k.*~~ *j.* Whose license has been suspended due to receipt of a certificate of noncompliance from the child support recovery unit.

~~*l.*~~ *k.* Whose license has been suspended due to receipt of a certificate of noncompliance from the college student aid commission.

~~*m.*~~ *l.* Whose license has been suspended for a charge of vehicular homicide.

~~*n.*~~ *m.* Who has been suspended under Iowa Code ~~subsection section~~ 321.180B(3).

615.45(2) Application.

a. To obtain a temporary restricted license, an applicant shall submit a written request for an interview with a driver's license hearing officer. The request shall be submitted to ~~the office of driver and identification services~~ at the address in ~~761—600.2(17A)~~ rule 761—615.3(17A).

b. If the driver's license hearing officer approves the issuance of a temporary restricted license, the officer shall furnish to the applicant application Form 430100, which is to be completed and submitted to ~~the office of driver and identification services~~.

c. No change.

615.45(3) No change.

615.45(4) Additional requirements. An applicant for a temporary restricted license shall also:

a. and *b.* No change.

c. Pay the required civil penalty specified in Iowa Code Supplement section 321.218A or 321A.32A.

TRANSPORTATION DEPARTMENT[761](cont'd)

615.45(5) and **615.45(6)** No change.

This rule is intended to implement Iowa Code chapter 321A and sections 252J.8, 321.177, 321.178, 321.184, 321.185, 321.186, 321.189, 321.191, 321.193, 321.194, 321.201, 321.205, 321.209, 321.210, 321.210A, 321.212, 321.213A, 321.213B, 321.215, 321.218, 321.218A, 321.513 and 321.560.

ITEM 22. Rescind the chapter implementation sentence in **761—Chapter 615**.

USURY

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

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

ARC 3968C

WORKERS’ COMPENSATION DIVISION[876]

Notice of Intended Action

Proposing rule making related to electronic filing and providing an opportunity for public comment

The Workers’ Compensation Commissioner hereby proposes to amend Chapter 2, “General Provisions,” Chapter 3, “Forms,” Chapter 4, “Contested Cases,” Chapter 5, “Declaratory Orders,” Chapter 10, “Informal Dispute Resolution Procedures,” and Chapter 11, “Electronic Data Interchange (EDI),” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 86.8.

State or Federal Law Implemented

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

Purpose and Summary

These proposed amendments will facilitate the electronic filing of claims and EDI information with the agency.

WORKERS' COMPENSATION DIVISION[876](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 Division for a waiver of the discretionary provisions, if any, pursuant to rule 876—12.4(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Division no later than 4:30 p.m. on September 18, 2018. Comments should be directed to:

James Elliott
Division of Workers' Compensation
1000 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.725.3829
Fax: 515.281.6501
Email: james.elliott@iwd.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

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

876—2.5(85,85A,85B,86) Use of workers' compensation electronic system (WCES) for submission of filings. The division of workers' compensation requires the filing of electronic data interchange (EDI) information, forms, petitions, pleadings, responses, and any other submissions to be effectuated by use of the workers' compensation electronic system (WCES). The website address for WCES is efile.iowaworkcomp.gov. The division of workers' compensation may provide exceptions to the mandatory use of WCES in contested claims.

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

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

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

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

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

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

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

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

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

876—2.8(86) Document requirements. Pleadings, responses to pleadings, exhibits, and transcripts submitted to the division of workers' compensation shall be scanned, attached, and filed as portable document format (pdf) or image-on-text documents (searchable pdf). A hearing report or proposed order or proposed ruling shall be submitted in Microsoft Word format. Transcripts submitted shall include an index. Filings shall not exceed 5 megabytes (MB). Documents exceeding 5 MB shall be divided and submitted as separate attachments to comply with this size limit. All filings pursuant to this rule shall be submitted via WCES unless otherwise ordered by the workers' compensation commissioner or a deputy workers' compensation commissioner. Audio or video files shall use MP3 or MP4 format and shall not exceed 500 MB for each filing.

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

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

876—2.9(86) Effective date of WCES rules. All rules and forms of the division of workers' compensation that relate to WCES shall be effective on December 3, 2018, or when WCES is available to the public, whichever is later.

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

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

3.1(2) Subsequent report of injury (SROI). The subsequent report of injury (SROI) provides for filing of notice of commencement of payments, correcting erroneous claim information, supplying additional information, denying compensability, agreeing to the weekly benefit rate and agreeing to make payments under the Workers' Compensation Act, reporting the status of a claim, or recording benefits paid. Notice of commencement of payments shall be filed within 30 days of the first payment. When liability on a claim is denied, a letter shall be sent to claimant stating reasons for denial. The ~~subsequent report of injury (SROI)~~ SROI shall also be filed when compensation is terminated or interrupted. Medical data supporting the action taken shall be filed when temporary total disability or temporary partial disability exceeds 13 weeks or when the employee sustains a permanent disability. ~~In the event the transmission of a subsequent report of injury (SROI) contains errors (TE), the errors shall be corrected within 15 days of the date of notification by the agency.~~

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

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

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

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

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

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

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

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

3.1(26) Form—application to defer payment of filing fees, financial affidavit and order. (14-0075) This form is used to request a deferral of payment of filing fees. This form is not initially filed through WCES.

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

3.1(27) Form—claimant's confidential information sheet. (14-0171) This form is used to provide information about the claimant's identifying information so that claims may be matched in WCES. This form is required to be filed by a claimant when the claimant is excused from using WCES.

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

3.1(28) Form—nonelection of workers' compensation or employers' liability coverage. (14-0175) This form is used for Iowa Code section 87.22.

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

3.1(29) Form—application to be excused from filing in WCES. (14-0176) This form is used by a self-represented party to request permission to file and serve documents in paper form and not use WCES.

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

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

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

in accordance with Iowa Code ~~sections~~ section 86.12, 86.13 or 86.13A or order compliance within a specified time and under specified circumstances. The workers' compensation commissioner may file a certified copy of the order in an appropriate district court and may file a certified copy of the order with the Iowa insurance division [~~commerce department~~] of the department of commerce with a request for action by the insurance division upon failure to comply with the order.

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

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

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

4.8(2) Filing fee.

a. No change.

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

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

e. and *f.* No change.

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

h. The workers' compensation commissioner may accept for filing an original notice and petition without prepayment of the filing fee if in the discretion of the workers' compensation commissioner the petitioner is unable to pay the fee at the time of filing. A deferral of payment of the filing fee shall only be granted upon written application by the petitioner. The application shall be filed at the same time the original notice and petition is filed. The application shall be in the form required by the workers' compensation commissioner and shall include an affidavit signed by the petitioner. When payment of the filing fee is deferred, provisions for payment of the filing fee must be included in any settlement submitted to the workers' compensation commissioner for approval or taxed as costs. When the application for deferral of payment of the filing fee is denied, the filing fee shall be paid as ordered. See 4.8(2) "e." The form for the application deferral of prepayment of fees (14-0075) shall not be filed using WCES. The document shall be filed in paper form. If the request for deferral of fees is granted, a claim will be established in WCES. Parties to the claim shall use WCES for future filings, unless a party has been given permission to not use WCES.

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

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

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

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

876—4.9(17A) Appearance and responses, pleading and motions. ~~Responses~~ Appearances and responses to pleadings and motions shall be made as follows: using the Iowa division of workers' compensation's WCES. Registration with the Iowa division of workers' compensation's WCES is required. Registration is accepted at efile.iowaworkcomp.gov. After a matter has been commenced and the respondent has been served with original notice and filed an answer or appearance, subsequent filings or submissions do not require proof of service to parties of record who are registered with WCES.

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

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

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

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

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

ITEM 20. Amend subrule 4.9(7) as follows:

4.9(7) Consolidation. ~~Any party may file a motion to consolidate common questions of fact and law surrounding an injury or a series of injuries. The motion shall be deemed approved if no resistance to the motion is filed with the workers' compensation commissioner within ten days of the filing of the motion. No order granting the motion will be filed by the workers' compensation commissioner. As an alternative, the parties may make an oral motion to consolidate common questions of fact or law at the time of the pretrial hearing. A ruling on the motion will be included with the order issued from the pretrial hearing.~~

ITEM 21. Amend subrule 4.9(8) as follows:

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

Under all other circumstances, counsel may withdraw only upon the order of the workers' compensation commissioner after making written application. Counsel shall give the client written

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

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

ITEM 22. Adopt the following **new** subrule 4.9(10):

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

ITEM 23. Amend rule 876—4.11(86), introductory paragraph, as follows:

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

ITEM 24. Amend rule 876—4.13(86), introductory paragraph, as follows:

876—4.13(86) Method of service. Except as provided in 876—4.6(85,86,17A) and 876—4.7(86,17A), service of all documents and papers to be served according to 876—4.12(86) and 876—4.18(85,86,17A) or otherwise upon a party represented by an attorney shall be made upon the attorney unless service upon the party is ordered by the workers' compensation commissioner. Service upon the attorney or party shall be made by delivery of a copy to or mailing a copy to the last-known address of the attorney or party, or if no address is known, by filing it with the division of workers' compensation using WCES once a party or party's attorney has registered in WCES for the claim being contested. If a party has been allowed to not file with WCES or if a party or attorney has not appeared in WCES, service upon the attorney or party shall be made by delivery of a copy or mailing a copy to the last-known address of the attorney or party or, if no address is known, by filing it with the division of workers' compensation. Delivery of a copy within this rule means: Handing it to the attorney or party; leaving it at the office of the attorney or party's office or with the person in charge of the office; or if there is no one in charge of the office, leaving it in a conspicuous place in the office; or if the office is closed or the person to be served has no office, leaving it at the person's dwelling house, or usual place of abode with some person of suitable age and discretion who is residing at the dwelling or abode. Service by mail under this rule is complete upon mailing. Documents that are served on a party for discovery and medical evidence under 876—4.14(86)

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and 876—4.18(17A,85,86) are not to be filed with the division of workers' compensation. No documents or papers referred to in this rule shall be served by the workers' compensation commissioner.

ITEM 25. Amend rule 876—4.15(86), introductory paragraph, as follows:

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

ITEM 26. Amend subrule 4.19(3) as follows:

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

a. Within 120 days, ~~but not less than 60 days,~~ following filing of a petition, the counsel of record for all parties and all pro se litigants shall schedule a hearing or hearings by using WCES. In a case for which permission has been granted not to use WCES, counsel of record for all parties and all pro se litigants shall jointly contact the hearing administrator by telephone at (515)~~281-6624~~ 725-3891 between the hours of 8:30 a.m. and 11 a.m. central time, Monday through Friday, excluding holidays, or by email at dwc.hearing@iwd.state.ia.us to schedule a hearing date, place and time. Claimant has primary responsibility for initiating the contact. The parties shall identify the case by file number and the names of the parties and request that the hearing be set at a specific date, place and time that is shown to be available on the hearing scheduler published on the division's website. Primary and backup times must be requested for hearings in venues other than Des Moines. When the contact is made by email, a copy of the request shall be sent to each opposing party, and the hearing administrator will reply indicating whether or not the case is assigned at the time requested. If a request is denied, the parties shall continue to contact the hearing administrator by telephone or email until the case is scheduled or a prehearing conference is ordered. A joint scheduling contact may be initiated by any party at any other time agreeable to the parties. If more than 120 days have elapsed since the petition was filed, any party may move to schedule the hearing at a particular date, time and place that is available and the hearing administrator may assign the case for hearing at ~~that~~ any date, time and place. The hearing date shall be within 12 months following the date the petition was filed or as soon thereafter as reasonably practicable as determined by the hearing administrator. If the parties fail to schedule the hearing with the hearing administrator, the case will be scheduled at the discretion of the hearing administrator without prior notice to the parties.

b. and *c.* No change.

d. At least 30 days before hearing, counsel of record and pro se litigants shall serve a witness and exhibit list on all opposing counsel and pro se litigants and exchange all intended exhibits that were not previously required to be served. The witness list shall name all persons, except the claimant, who will be called to testify at the hearing or who will be deposed prior to the hearing in lieu of testifying at the hearing. The witness and exhibit list is not filed in WCES. If the exhibit list does not contain actual exhibits, the exhibit list must specifically identify each exhibit in a way that permits the opposing party to recognize the exhibit. The description for a document should include the document's date, number of pages and author or source. Exhibits that were specifically identified when served pursuant to rule 876—4.17(17A,85,86) or in a discovery response may be collectively identified by describing the service such as "exhibits described in the notices served pursuant to rule 876—4.17(17A,85,86) on May 7, June 11 and July 9, 2004." Blanket references such as "all medical records," "personnel file" or "records

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produced during discovery” do not specifically identify an exhibit. A party may serve a copy of the actual intended exhibits in lieu of an exhibit list. At least 14 days before hearing, counsel of record and pro se litigants shall file proposed exhibits in WCES or, if the counsel of record and pro se litigants are excused from using WCES, shall file with the division. Counsel of record and pro se litigants shall file all written objections and motions to exclude evidence at least 7 days before the hearing. Objections to exhibits are waived if they are not filed at least 7 days before the hearing. Evidentiary depositions pursuant to Iowa Code section 86.18(2) may be taken at any time before the hearing in lieu of the witness testifying at the hearing.

e. If evidence is offered at hearing that was not disclosed in the time and manner required by these rules, as altered by order of the workers' compensation commissioner or a deputy workers' compensation commissioner or by a written agreement by the parties, the evidence will be excluded if the objecting party shows that receipt of the evidence would be unfairly prejudicial. Sanctions may be imposed pursuant to 876—4.36(86) in addition to or in lieu of exclusion if exclusion is not an effective remedy for the prejudice. If a party offers an exhibit or document in paper form which is accepted by the workers' compensation commissioner or a deputy workers' compensation commissioner, the party shall have 5 working days to submit an electronic copy of the document by using WCES.

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

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

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

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

ITEM 27. Amend rule 876—4.24(17A,86) as follows:

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

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

ITEM 28. Amend subrule 4.28(2) as follows:

4.28(2) Cross-appeals. In the event of a cross-appeal, appellee (cross-appellant) shall serve its brief within 20 days after service of the brief of appellant. Appellant (cross-appellee) shall serve its responsive reply brief within 20 days after service of the brief of appellee. Appellee (cross-appellant) may serve a

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reply brief within 10 days after service of appellant's reply brief. ~~When both parties appeal, the first to serve notice of appeal shall be appellant unless both serve their notice on the same date, in which case the claimant shall be appellant.~~ When more than one party appeals, the party filing the first notice of appeal will be designated the appellant and the party filing a subsequent notice of appeal will be designated the cross-appellant.

ITEM 29. Amend rule 876—4.29(86,17A), introductory paragraph, as follows:

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

ITEM 30. Amend rule 876—4.33(86), introductory paragraph, as follows:

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

ITEM 31. Amend rule 876—4.39(17A,86) as follows:

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

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

ITEM 32. Amend subrule 4.48(8) as follows:

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

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commissioner. The notice will specify whether the hearing will be by telephone, ~~or~~ in person or by other digital means.

ITEM 33. Amend subrule 4.48(12) as follows:

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

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

ITEM 34. Amend subrule 4.50(3) as follows:

4.50(3) Application for vocational training and education.

a. An application shall:

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

b. An application for vocational training and education must be filed in WCES unless permission has been granted to file paper documents. Applicant(s) must serve a copy of this form on the appellee(s) by certified mail, return receipt requested, or by personal service as in civil actions in accordance with rule 876—4.7(86,17A) and mail a copy to the attorney of record for the appellee(s), if known, in accordance with rule 876—4.13(86).

ITEM 35. Adopt the following new rule 876—4.51(86):

876—4.51(86) Agency notice of judicial review matters. A party who petitions for judicial review is responsible for filing with the division of workers' compensation's WCES a copy of the petition for judicial review within 10 days of filing the petition with a district court. A party shall also file a copy of each appellate court decision within 10 days of the date the appellate court decision was issued and filed. Within 45 days of the filing of the final appellate court decision, the same party shall notify the division of workers' compensation of the result of the appellant process.

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

ITEM 36. Adopt the following new rule 876—4.52(86):

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

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“trial” shall be deemed reference to “contested case hearing,” and reference to “clerk of court” shall refer to staff at the division of workers’ compensation.

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

ITEM 37. Amend rule 876—5.1(17A), introductory paragraph, as follows:

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

ITEM 38. Adopt the following **new** subrule 10.3(5):

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

ITEM 39. Amend rule 876—11.2(85,86) as follows:

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

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

“*EDI partnering agreement*” means the written agreement between an entity and the division of workers’ compensation specifying the terms and manner of reporting by EDI.

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

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

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

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

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

ITEM 40. Amend rule 876—11.3(85,86) as follows:

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

ITEM 41. Rescind and reserve rule **876—11.5(85,86)**.

ITEM 42. Amend rule 876—11.6(85,86) as follows:

876—11.6(85,86) Mandatory reporting deadline. All reporters must sign a partnering agreement and begin reporting by EDI Release 3.1 no later than July 1, 2001 December 3, 2018. Reporting by any means other than EDI Release 3.1 after July 1, 2001 December 3, 2018, will not be acceptable. Reporters are responsible for reporting by EDI. A reporter may contract with another entity for reporting, but the reporter is ultimately responsible for reporting. Any entity reporting on behalf of a reporter must also sign an EDI partnering agreement.

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ITEM 43. Amend rule 876—11.7(85,86) as follows:

876—11.7(85,86) Required reports.

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

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

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

ARC 3965C**WORKFORCE DEVELOPMENT DEPARTMENT[871]****Notice of Intended Action****Proposing rule making related to benefits and voluntary shared work and providing an opportunity for public comment**

The Workforce Development Department hereby proposes to amend Chapter 23, "Employer's Contribution and Charges," 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 are largely in response to law changes from the 2018 Legislative Session. The Department needs to ensure that its rules are properly updated. Updates to deductibility of vacation pay and pensions, as well as the way in which the Department handles fraudulent overpayments and offsets, are addressed by these amendments. Provisions for the implementation and administration of voluntary shared work will assist the Department in adding efficiency and clarity to this program for the benefit of employers and workers. The Department needs to have administrative rules that address these changes.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

Fiscal Impact

The changes related to pension and vacation pay deductibility will permit the Department to reallocate an estimated 2.9 workforce advisor full-time equivalent (FTE) positions and \$150,000 in salary expenses paid from the unemployment insurance federal base grant in the Benefits Bureau.

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 18, 2018. Comments should be directed to:

David Steen
Iowa Department of Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Email: david.steen@iwd.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 paragraph **23.43(4)“b”** as follows:

b. An individual who voluntarily quits supplemental part-time employment without good cause ~~part-time employment~~ and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting without good cause the supplemental part-time employer. The individual and the part-time employer which was voluntarily quit without good cause shall be notified on Form 65-5323 or 60-0186, Decision of the Workforce Development Representative, that benefit payments shall not be made which are based on the wages paid by the part-time employer, and benefit charges shall not be assessed against the part-time employer's account; however, once the individual meets the requalification requirements following the voluntary

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quit without good cause of the part-time employer, the wages paid in the part-time employment shall be restored for benefit payment and charging purposes as determined by applicable requalification requirements.

ITEM 2. Amend paragraph **24.2(1)“k”** as follows:

k. Any individual who is disqualified for benefits because of the individual's failure to report ~~as directed to file a claim following the date specified~~ may appeal to the department for the right to establish good cause for failure to report because of extraordinary circumstances. A representative of the department may deny the request, and the decision may be appealed to an administrative law judge for a hearing and decision on the merits. If the petition is allowed, the petitioner shall be allowed to file a claim for and receive full benefits for each week for which such claim is filed, if otherwise eligible.

ITEM 3. Amend subrule 24.13(1) as follows:

24.13(1) Procedures for deducting payments from benefits. Any payment defined under subrules 24.13(2) and 24.13(3) made to an individual claiming benefits shall be deducted from benefits in accordance with the following procedures until the amount is exhausted; however, vacation pay which is deductible in the manner prescribed in rule 871—24.16(96) shall be deducted first when paid in conjunction with other deductible payments described in this rule unless otherwise designated by the employer: The individual claiming benefits is required to designate the last day paid which may indicate payments made under this rule. The employer is required to designate on the Form 65-5317, Notice of Claim Response, the amount of the payment and the period to which the amount applies. If the individual or the employer does not designate the period to which the amount of the payment applies, ~~and the unemployment insurance representative cannot otherwise determine the period,~~ the unemployment insurance representative shall determine the ~~week or weeks~~ days following the effective date of the claim to which the amount of the payment applies by dividing the amount of the payment by the individual's average weekly wage during the highest earnings quarter of the individual's base period. The amount of any payment under subrule 24.13(2) shall be deducted from the individual's weekly benefit amount on the basis of the formula used to compute an individual's weekly benefit payment as provided in rule 871—24.18(96) not to exceed five workdays following the separation date of employment. If the employer reports vacation pay in more than one format and the effect on the benefit payment varies depending on how the vacation pay is applied, the unemployment insurance representative shall apply the vacation pay to the individual's weekly benefit payment by dividing the amount of the payment by the individual's average weekly wage during the highest earnings quarter of the individual's base period. The first day the vacation pay can be applied is the workday after the separation. The amount of any payment under subrule 24.13(3) shall be fully deducted from the individual's weekly benefit amount on a dollar-for-dollar basis.

ITEM 4. Amend paragraph **24.13(3)“e”** as follows:

e. Pension, retirement, annuity, or any other similar periodic payment made under a plan maintained and contributed to by a base period or chargeable employer. An individual's weekly benefit amount shall only be reduced ~~by that portion of the payment~~ if the base period employer has made 100 percent of the contributions to the plan which is the same percentage as the percentage contribution of the base period or chargeable employer to the plan.

ITEM 5. Rescind and reserve subrule **24.16(2)**.

ITEM 6. Amend paragraph **24.17(1)“d”** as follows:

d. The claimant shall be instructed to only report vacation pay applicable to the first ~~week~~ five workdays following the last date worked. The claimant shall also be instructed that vacation pay designated by the employer in excess of one week may result in an overpayment of benefits.

ITEM 7. Amend subrule 24.58(1) as follows:

24.58(1) ~~A shared work plan will last no longer than 52 weeks from the date on which the plan is first effective. The minimum length of a plan is four weeks shall be no shorter than 4 weeks and no longer than 52 weeks in duration.~~ Any requests for subsequent plans will be reviewed by the department.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

ITEM 8. Adopt the following new subrule 24.58(7):

24.58(7) Employer requirements.

a. For each week that a voluntary shared work employer has an active plan, the work share employer shall submit a certification of hours worked by employees covered by an approved work share plan in the form or manner directed by the department for each employee covered by the employer's approved work share plan.

b. The first employer weekly certification shall be due no later than the Monday following the effective date of the employer's work share plan. All subsequent weekly employer certifications shall be due no later than Monday (close of business) following the benefit week. If the employer fails to submit the weekly certification by the Monday immediately following the benefit week, the department will have good cause to terminate the employer's work share plan.

ITEM 9. Amend paragraph **25.8(2)“b,”** introductory paragraph, as follows:

b. The claimant may make refund of an overpayment by cash or by other means ~~of an offset against future benefit payments~~, at the discretion of the department.

ITEM 10. Amend paragraph **25.8(2)“c”** as follows:

c. ~~Any benefits which may become due an individual against whom a fraudulent overpayment is outstanding may be used to reduce the amount of the fraudulent overpayment.~~ The employer's account will be noncharged for overpayments caused by fraud or misrepresentation.

ARC 3987C**DENTAL BOARD[650]****Adopted and Filed****Rule making related to practice of dental licensees and registrants**

The Dental Board hereby amends Chapter 10, “General Requirements,” and Chapter 16, “Prescribing, Administering, and Dispensing Drugs,” 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 147.9, 153.15, 153.16, 153.17, 153.33, 153.33A and 153.34.

Purpose and Summary

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

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

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

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

These amendments clarify the situations wherein a licensee or registrant will be required to submit a change of address to the Board.

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 3849C**. A public hearing was held on July 13, 2018, at 2 p.m. at the Board Office, Suite D, 400 S.W. Eighth Street, Des Moines, Iowa. Two members of the public were in attendance and were supportive of the amendments. Additionally, 20 written comments were received. The majority of the comments supported the amendments and stated that the amendments will provide more oral health care opportunities for underserved Iowans. Four comments expressed concern regarding the reduction of experience required for a dental hygienist to work in a public health setting. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on August 3, 2018.

Fiscal Impact

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

DENTAL BOARD[650](cont'd)

Jobs Impact

After analysis and review of this rule making, there is a positive impact on jobs for dental hygienists who wish to work in a public health setting because hygienists will be able to do so with fewer years of experience. Public health settings have sometimes had difficulty finding qualified candidates. The new requirements will allow more dental hygienists to qualify for work in this setting.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 650—Chapter 7.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on October 3, 2018.

The following rule-making actions are adopted:

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

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

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

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

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

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

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

DENTAL BOARD[650](cont'd)

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

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

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

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

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

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

10.5(2) Public health supervision defined. “Public health supervision” means all of the following:

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

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

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

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

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

a. The dentist providing public health supervision must:

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

(2) Have age- and procedure-specific standing orders for the performance of dental hygiene services. Those standing orders must include consideration for medically compromised patients and medical conditions for which a dental evaluation must occur prior to the provision of dental hygiene services;

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

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

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

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

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

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

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

DENTAL BOARD[650](cont'd)

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

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

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

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

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

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

This rule is intended to implement Iowa Code section 153.15.

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

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

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

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

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

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

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

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

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

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

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

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

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

DENTAL BOARD[650](cont'd)

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

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

[Filed 8/8/18, effective 10/3/18]

[Published 8/29/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/29/18.

ARC 3979C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rule making related to licensing

The Board of Educational Examiners hereby amends Chapter 13, "Issuance of Teacher Licenses and Endorsements," Chapter 18, "Issuance of Administrator Licenses and Endorsements," Chapter 23, "Behind-the-Wheel Driving Instructor Authorization," and Chapter 27, "Issuance of Professional Service Licenses," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 272.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272.7 as amended by 2018 Iowa Acts, House File 2283.

Purpose and Summary

The amendments are intended to implement 2018 Iowa Acts, House File 2283, which amends Iowa Code section 272.7 by eliminating the requirement that licenses remain valid until the last day of the practitioner's birth month, thus allowing the Board to adjust the expiration date for the initial license to align with the academic year.

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 3827C**. A public hearing was held on June 27, 2018, at 1 p.m. in Room 3 Southwest, Grimes State Office Building, 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 August 3, 2018.

Fiscal Impact

Board staff estimates that the Board has typically processed approximately 300 extensions per year that will be unnecessary in the future when these amendments become effective. Because the extension

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

fee is \$25, the reduction in the number of extensions will result in a decrease of \$7,500 in fees collected by the Board annually and \$1,875 less in the Board's annual deposit to the General Fund.

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 282—Chapter 6.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on October 3, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 282—13.6(272) as follows:

282—13.6(272) Specific requirements for an initial license. An initial license valid for a minimum of two years with an expiration date of June 30 may be issued to an applicant who meets the general requirements set forth in rule 282—13.5(272).

ITEM 2. Amend rule 282—13.30(272) as follows:

282—13.30(272) Licenses—issue and expiration dates, corrections, duplicates, and fraud.

13.30(1) *Issue date and expiration dates on original license.* A license is valid only from and after the date of issuance. Licenses, authorizations, certificates, and statements of professional recognition will expire on the last day of the practitioner's birth month after the term of the license unless otherwise specified. If the expiration date is changed by rule, the change may be retroactive.

13.30(2) to 13.30(4) No change.

ITEM 3. Amend rule 282—18.4(272) as follows:

282—18.4(272) General requirements for an administrator license.

18.4(1) No change.

18.4(2) *Specific requirements for an initial administrator license for applicants who have completed a teacher preparation program.* An initial administrator license valid for a minimum of one year with an expiration date of June 30 may be issued to an applicant who:

a. to f. No change.

18.4(3) and 18.4(4) No change.

ITEM 4. Amend rule 282—23.2(272,321) as follows:

282—23.2(272,321) Validity. The behind-the-wheel driving instructor authorization shall be valid for one year from the date of issuance. The behind-the-wheel driving instructor authorization shall be valid only if the holder continues to be qualified under subrule 23.1(1).

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

ITEM 5. Amend rule 282—27.2(272) as follows:

282—27.2(272) Requirements for a professional service license.

27.2(1) Initial professional service license. An initial professional service license valid for a minimum of two years with an expiration date of June 30 may be issued to an applicant for licensure to serve as a school audiologist, school psychologist, school social worker, speech-language pathologist, supervisor of special education (support), director of special education of an area education agency, or school counselor who:

a. to e. No change.

27.2(2) and 27.2(3) No change.

[Filed 8/6/18, effective 10/3/18]

[Published 8/29/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/29/18.

ARC 3980C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to the Every Student Succeeds Act and to Iowa assessments

The State Board of Education hereby amends Chapter 12, "General Accreditation Standards," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 256.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 256.7(21) and 20 U.S.C. 7926.

Purpose and Summary

Pursuant to the Every Student Succeeds Act (ESSA), Section 8038, codified at 20 U.S.C. 7926, the State Board of Education amends rule 281—12.3(256) by adding new subrule 12.3(14) to require schools and school districts to adopt policies prohibiting the aiding and abetting of sexual abuse. In addition, the State Board amends subrule 12.8(1) by replacing paragraph "h" with a new paragraph "h" that names the summative assessment developed by the Iowa testing program within the University of Iowa college of education and administered by the Iowa testing program's designee as the statewide summative assessment of student progress administered by school districts for purposes of the core academic indicators.

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 3822C**. A public hearing was held on June 26, 2018, at 9 a.m. in the State Board Room, Second Floor, Grimes State Office Building, 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 State Board on August 2, 2018.

EDUCATION DEPARTMENT[281](cont'd)

Fiscal Impact

The fiscal impact is unknown until a vendor is chosen and terms are set by Iowa Testing Programs.

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 State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on October 3, 2018.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** subrule 12.3(14):

12.3(14) Policy prohibiting the aiding and abetting of sexual abuse.

a. General. The department and each public school district and area education agency shall adopt policies that prohibit any individual who is a school employee, contractor, or agent, or any state educational agency or local educational agency, from assisting a school employee, contractor, or agent in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or agency knows, or has probable cause to believe, that such school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law.

b. Exception. The requirements of paragraph 12.3(14)“a” shall not apply if all of the following conditions are met.

(1) The information giving rise to probable cause has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct; and has been properly reported to any other authorities as required by federal, state, or local law, including Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and the regulations implementing such title under Part 106 of Title 34, Code of Federal Regulations, or any succeeding regulations.

(2) The matter has been officially closed or the prosecutor or police with jurisdiction over the alleged misconduct have investigated the allegations and notified school officials that there is insufficient information to establish probable cause that the school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law; or the school employee, contractor, or agent has been charged with, and acquitted or otherwise exonerated of, the alleged misconduct; or the case or investigation remains open and there have been no charges filed against, or indictment of, the school employee, contractor, or agent within four years of the date on which the information was reported to a law enforcement agency.

ITEM 2. Rescind paragraph **12.8(1)“h”** and adopt the following **new** paragraph in lieu thereof:

h. Statewide summative assessment.

(1) For purposes of this chapter, the statewide summative assessment of student progress administered by school districts for purposes of the core academic indicators shall be the summative assessment developed by the Iowa testing program within the University of Iowa college of education

EDUCATION DEPARTMENT[281](cont'd)

and administered by the Iowa testing program's designee. The department may require the Iowa testing program to enter into agreements with such designee to ensure the department is able to comply with Iowa Code chapter 256; this chapter; the requirements of the federal Every Student Succeeds Act, Pub. L. No. 114-95; the requirements of the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g; and any other applicable state or federal law.

(2) For the school year beginning July 1, 2018, and each succeeding school year, the statewide summative assessment referred in this paragraph shall meet all of the following requirements:

1. All students enrolled in school districts in grades 3 through 11 shall be administered an assessment in mathematics and English language arts, including reading and writing, during the last quarter of the school year, and all students enrolled in school districts in grades 5, 8, and 10 shall be administered an assessment in science during the last quarter of the school year.

2. The assessment, at a minimum, shall assess the core academic indicators identified in Iowa Code section 256.7(21) "b"; be aligned with the Iowa common core standards in both content and rigor; accurately describe student achievement and growth for purposes of the school, the school district, and state accountability systems; provide valid, reliable, and fair measures of student progress toward college or career readiness; and meet the summative assessment requirements of the federal Every Student Succeeds Act, Pub. L. No. 114-95.

3. The assessment shall be available for administration in both paper-and-pencil and computer-based formats and include assessments in mathematics, science, and English language arts, including reading and writing.

4. The assessment shall be peer-reviewed by an independent third-party evaluator to determine that the assessment is aligned with the Iowa core academic standards, provides a measurement of student growth and student proficiency, and meets the summative assessment requirements of the federal Every Student Succeeds Act, Pub. L. No. 114-95. The assessment developed by the Iowa testing service within the University of Iowa college of education shall make any necessary adjustments as determined by the peer review to meet the requirements of this paragraph.

5. The costs of complying with the requirement of this paragraph shall be borne by the Iowa testing program within the University of Iowa college of education.

[Filed 8/2/18, effective 10/3/18]

[Published 8/29/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/29/18.

ARC 3981C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to online learning

The State Board of Education hereby amends Chapter 15, "Use of Online Learning and Telecommunications for Instruction by Schools," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 256.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 256.42 as amended by 2018 Iowa Acts, Senate File 2131.

EDUCATION DEPARTMENT[281](cont'd)

Purpose and Summary

These amendments allow distance education to be provided to students receiving independent private instruction, competent private instruction, or private instruction under Iowa Code chapter 299A; provide a fee structure for school districts; and address fiscal matters borne by the Department.

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 3823C**. A public hearing was held on June 26, 2018, at 10 a.m. in the State Board Room, Second Floor, Grimes State Office Building, 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 State Board on August 2, 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 State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on October 3, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 281—15.10(256) as follows:

281—15.10(256) Appropriate applications of ILO coursework. ILO courses are intended to help Iowa school districts expand learning opportunities by providing opportunities for individual students to take one or more courses offered “at a distance” using technologies such as the Internet and interactive videoconferencing. Participating school districts and accredited nonpublic schools may also enroll students in ILO courses if online learning is more suited to a specific student’s circumstances. ILO may also provide distance education to a student receiving independent private instruction as defined in Iowa Code section 299A.1(2) “b,” competent private instruction under Iowa Code section 299A.2, or private instruction by a nonlicensed person under Iowa Code section 299A.3.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 2. Amend rule 281—15.12(256) as follows:

281—15.12(256) School and school district responsibilities. Each participating school district and accredited nonpublic school shall submit its online curricula, excluding coursework provided by ILO, to the department for review. Each participating school district and accredited nonpublic school shall include in its comprehensive school improvement plan submitted pursuant to Iowa Code section ~~256.7, subsection 21,~~ 256.7(21) a list and description of the online coursework offered by the school or school district, excluding coursework provided by ILO. Each participating school district and accredited nonpublic school is responsible for recording grades received for ILO coursework in a student's permanent record and for awarding graduation credit for ILO coursework. Each participating school district and accredited nonpublic school shall identify a site coordinator to serve as a student advocate and as a liaison between the initiative staff and teachers and the school district or accredited nonpublic school. Each participating school district and school shall pay the fees prescribed by subrule 15.13(2).

ITEM 3. Amend rule 281—15.13(256) as follows:

281—15.13(256) Department responsibilities.

15.13(1) *Course quality.* The department shall annually evaluate the quality of courses offered under ILO to ensure that coursework is rigorous and of high quality and is aligned with Iowa's core curriculum and core content requirements and standards as well as with national standards of quality for online courses issued by an internationally recognized association for elementary and secondary online learning. The department shall ensure that all ILO coursework is taught by a teacher who is appropriately licensed and endorsed for the educational level and content area being taught and who has completed an online-learning-for-Iowa-educators professional development course offered by an area education agency, a teacher preservice program, or comparable coursework.

15.13(2) *Fiscal matters.* The department shall establish fees payable by school districts, accredited nonpublic schools, and individuals providing instruction to students under Iowa Code chapter 299A as described in rule 281—15.10(256), for ILO coursework. Fees collected pursuant to this subrule are appropriated to the department to be used only for the purpose of administering ILO and shall be established so as not to exceed the cost of administering ILO. Providing professional development necessary to prepare teachers to participate in the initiative shall be considered a cost of ILO administration. Notwithstanding Iowa Code section 8.33, fees collected by the department that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purpose of expanding ILO coursework offered in subsequent fiscal years.

ITEM 4. Rescind rule 281—15.14(256) and adopt the following **new** rule in lieu thereof:

281—15.14(256) Responsibilities of individuals providing private instruction under Iowa Code chapter 299A. The individual providing instruction to a student under rule 281—15.10(256) shall pay the fees prescribed by subrule 15.13(2). The individual providing instruction to a student under rule 281—15.10(256) shall receive the student's score for completed ILO coursework.

ITEM 5. Adopt the following **new** rule 281—15.15(256):

281—15.15(256) Enrollment in an ILO course. Under ILO, a student must be enrolled in a participating school district or accredited nonpublic school or be receiving private instruction under Iowa Code chapter 299A as described in rule 281—15.10(256).

[Filed 8/2/18, effective 10/3/18]

[Published 8/29/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/29/18.

ARC 3982C**EDUCATION DEPARTMENT[281]****Adopted and Filed****Rule making related to credits in career and technical education**

The State Board of Education hereby amends Chapter 21, “Community Colleges,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 256.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 260C.

Purpose and Summary

The amendments in Items 1 and 2 align the Department’s administrative rules to two policies established by the Higher Learning Commission, the regional accrediting body for postsecondary institutions. The first policy sets the required general education credits in career and technical education programs at 15 credits. The second policy allows for integrated, embedded, interdisciplinary models of general education in career and technical education programs. The amendments to paragraphs “d” and “e” of subrule 21.2(9) increase the general education credits in the associate of applied arts and associate of applied science award options from 12 credits to 15 credits and establish a framework for consistency in identifying and documenting general education learning requirements integrated into career and technical education programs.

The amendments in Items 3 and 4 revise Chapter 21 to accommodate the establishment by community colleges of specialized programs of study, referred to as transfer majors, within general associate of arts and associate of science degree options. New rule 281—21.3(260C) in Item 3 and the amendment to paragraph 21.4(2)“a” in Item 4 will ensure consistency in the development and approval of transfer major programs.

New subrule 21.4(4) in Item 6 implements a recommendation of the Developmental Education Work Group, a Department-convened entity consisting of community college stakeholders tasked with developing strategies to achieve the Future Ready Iowa goal that 70 percent of Iowans have some form of postsecondary training by the year 2025. Accordingly, the strategies identified by the group will increase success in developmental education coursework and the likelihood of completing a postsecondary credential. Item 5 renumbers existing subrules to accommodate the addition of new subrule 21.4(4).

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 3824C**. A public hearing was held on June 26, 2018, at 11 a.m. in the State Board Room, Second Floor, Grimes State Office Building, 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 State Board on August 2, 2018.

Fiscal Impact

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

EDUCATION DEPARTMENT[281](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 State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on October 3, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **21.2(9)“d”** as follows:

d. Associate of applied science (AAS). The degree is awarded upon completion of a state-approved program of study that is intended to prepare students for entry-level career and technical occupations. An associate of applied science degree shall consist of a minimum of 60 semester (90 quarter) credit hours and a maximum of 86 semester (129 quarter) credit hours. The general education component of the associate of applied science degree program shall consist of a minimum of ~~12~~ 15 semester (~~18~~ 22.5 quarter) credit hours of general education and shall include at least one course from each of the following areas: communications, social science or humanities, and mathematics or science. A maximum of 3 semester (4.5 quarter) credit hours of the required 15 general education credits may be documented through an integrated, embedded, and interdisciplinary model adopted by the chief academic officers of the 15 community colleges in consultation with the department. The technical core of the associate of applied science degree shall constitute a minimum of 50 percent of the course credits.

ITEM 2. Amend paragraph **21.2(9)“e”** as follows:

e. Associate of applied arts (AAA). The degree is awarded upon completion of a state-approved program of study that is primarily intended for career training in providing students with professional skills for employment in a specific field of work such as arts, humanities, or graphic design. An associate of applied arts degree shall consist of a minimum of 60 semester (90 quarter) credit hours and a maximum of 86 semester (129 quarter) credit hours. The general education component of the associate of applied arts degree program shall consist of a minimum of ~~12~~ 15 semester (~~18~~ 22.5 quarter) credit hours of general education and shall include at least one course from each of the following: communications, social science or humanities, and mathematics or science. A maximum of 3 semester (4.5 quarter) credit hours of the required 15 general education credits may be documented through an integrated, embedded, and interdisciplinary model adopted by the chief academic officers of the 15 community colleges in consultation with the department. The technical core of the associate of applied arts degree shall constitute a minimum of 50 percent of the course credits.

ITEM 3. Adopt the following **new** rule 281—21.3(260C):

281—21.3(260C) Associate of arts and associate of science transfer major programs.

21.3(1) General program. Each community college shall offer a general college parallel program of study leading to an associate of arts award or an associate of science award, pursuant to subrules 21.2(9)

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and 21.4(2). These programs shall offer courses equivalent to the first two years of a baccalaureate program and shall not be discipline-specific.

21.3(2) *Transfer majors.* A community college may establish discipline-specific transfer major programs to improve student recruitment, advising, and success and enhance transferability of associate-level courses into aligned baccalaureate degree programs. The transfer major program shall consist of discipline-relevant credits from an approved discipline framework which satisfies the requirements of paragraph 21.3(2)“b.” A community college shall ensure all students are appropriately advised regarding the availability, structure, purpose, and other pertinent information related to the transfer major program.

a. Degree option. A transfer major shall be embedded within an associate of arts or associate of science degree which meets the requirements of this chapter and any applicable statewide transfer agreement between the Iowa community colleges and public universities. Credits within the transfer major may be utilized to fulfill the general education requirements of an associate of arts or associate of science degree, as appropriate.

b. Discipline framework. Each approved transfer major program shall adhere to the appropriate adopted discipline framework to ensure transferability with the aligned baccalaureate program of study at one or more public universities in Iowa.

(1) A discipline framework shall consist of a minimum of 18 discipline-relevant semester credits (27 quarter credits) that align with a framework of elements based on accepted practices of an aligned baccalaureate degree program of study at a public university in Iowa.

(2) The courses within the discipline framework shall articulate with a regionally accredited public university in Iowa so that the course credits are recognized by the university as fulfilling equivalent course requirements in at least one aligned baccalaureate degree program of study.

(3) If the requirements of subparagraph 21.3(2)“b”(2) cannot be achieved with at least one regionally accredited public university in Iowa, a request may be submitted to the department for articulation with a regionally accredited public institution in a contiguous state or a group of no less than three regionally accredited private postsecondary institutions which confer baccalaureate degrees, are based in Iowa, and are approved under Iowa Code chapter 261 to operate in the state of Iowa.

(4) The discipline framework shall be developed and adopted by a statewide committee convened by the department.

c. Use of term. Consistent with department guidance, each community college shall exclusively use the term “transfer major” to record the completion of an approved transfer major program on the student’s official transcript and other academic records, publish in the college catalog, and market the transfer major program to current and potential students and the general public. A community college shall not transcript, catalog, or market an associate of arts or associate of science program using other terms which contain or are synonymous with the term “major” or which imply a specialization within a subject area.

21.3(3) *Approval.* Per Iowa Code section 260C.14, each transfer major program shall be submitted to the department for approval utilizing the state system for program management. Approval shall be obtained prior to the enrollment of students in the transfer major program. The approval process shall not include components specific to career and technical education program approval, including advisory committees and labor market analysis.

21.3(4) *Reporting.* Each community college shall comply with data reporting requirements established by the department. The department shall produce and make available a report detailing enrollment and outcomes of participants in transfer major programs.

21.3(5) *Effective date.* The requirements of this rule shall take effect beginning with the 2019-2020 academic year. In implementing the provisions of this rule, the department shall consult key stakeholders including, but not limited to, representatives of Iowa’s community colleges and public universities.

ITEM 4. Amend paragraph **21.4(2)“a”** as follows:

a. This program shall offer courses that are the equivalent of the first two years of a baccalaureate program and may also include: such courses as may be necessary to develop skills that are prerequisite

EDUCATION DEPARTMENT[281](cont'd)

to other courses and objectives; ~~and~~ specialized courses required to provide career options within the college parallel or transfer program; and approved transfer major programs meeting the requirements of 281—21.3(260C). College parallel or transfer programs are associate of arts and associate of science degree programs. General education courses in college parallel or transfer programs are required to be college transfer courses. A follow-up of students terminating shall be conducted to determine how well students have succeeded and which adjustments in the curriculum, if any, need to be made.

ITEM 5. Renumber subrules **21.4(4)** and **21.4(5)** as **21.4(5)** and **21.4(6)**.

ITEM 6. Adopt the following **new** subrule 21.4(4):

21.4(4) Developmental education. Students who enter community colleges underprepared for postsecondary coursework are provided opportunities to improve their cognitive and noncognitive skills via developmental education academic and student support services. In an effort to enhance these opportunities, while respecting the local authority of Iowa's community colleges, each college shall adopt proven developmental education strategies to identify and address the needs of students, shorten the time to completion, prepare students for academic success, and reduce the financial burden for students underprepared for postsecondary coursework. Such proven strategies include, but are not limited to, multiple measures of placement; accelerated and integrated strategies, such as co-requisite models; and support services that address students' cognitive and noncognitive needs. These reform efforts require collaboration among community colleges, school corporations, and education stakeholders to systemically expand proven strategies to prepare students for postsecondary success.

[Filed 8/2/18, effective 10/3/18]

[Published 8/29/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/29/18.

ARC 3983C

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Rule making related to snowmobiles

The Natural Resource Commission hereby amends Chapter 47, "Snowmobiles," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 321G.2(1)"e," 321G.7(2) and 455A.5(6).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321G.2(1)"e," 321G.7 and 455A.5(6).

Purpose and Summary

Iowa Code section 321G.7(2) requires that at least 70 percent of Iowa's snowmobile registration funds be used on grants, subgrants, contracts, or cost-share programs in support of Iowa's snowmobile programs. These funds are available for political subdivisions and incorporated private organizations. Prior to 2017, only 50 percent of registration funds were required to be used in such a manner, but the amount was increased by the 87th General Assembly in 2017 Iowa Acts, Senate File 472, signed by Governor Branstad on April 12, 2017. This enlargement necessarily increases the Iowa Department of Natural Resources' (Department) workload associated with implementing such grants, contracts, and cost-share programs. After the passage of the bill, the Department and the Iowa State Snowmobile

NATURAL RESOURCE COMMISSION[571](cont'd)

Association (ISSA) mutually agreed to transfer these moneys to ISSA via contract so that ISSA rather than the Department may distribute the funds consistent with the statutory directive. This agreement benefits both parties by enabling the Department to focus its limited resources on other administrative and enforcement matters, while empowering ISSA to foster a more active snowmobile community within the state. The parties signed the contract on September 5, 2017, specifying the requirements in law for these registration funds.

Chapter 47 contains the rules for registering, operating, and selling snowmobiles in the state. Rule 571—47.10(321G) is being added to make clear that at least 70 percent of snowmobile fees will be transferred via contract to a political subdivision or incorporated private organization for use consistent with Iowa Code section 321G.7(2). The new rule also outlines the minimum terms such a contract shall always contain to ensure the statutorily mandated grants and cost-share programs are being implemented and to ensure that these public funds are subject to regular accounting and reporting. The Commission's snowmobile registration revenue grant program rules contained in Division III are being rescinded. These rules are no longer necessary since ISSA shall be administering the program.

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 3828C**. A public hearing was held on June 26, 2018, at 9 a.m. in Conference Room 4E, Wallace State Office Building, Des Moines, Iowa. A member of ISSA authorized to speak on behalf of the association appeared and made comments in support of these amendments. No other 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 August 9, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. The funds used in the snowmobile registration revenue grant program have not changed because of these amendments. A copy of the impact statement is available from the Department upon request.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on October 3, 2018.

The following rule-making actions are adopted:

NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 1. Adopt the following **new** rule 571—47.10(321G):

571—47.10(321G) Snowmobile fee grants, cost-share programs, and contracts. The department shall transfer, via contract, at least 70 percent of snowmobile fees to a political subdivision or an incorporated private organization for distribution through snowmobile-related grants, cost-share agreements, or contracts consistent with Iowa Code section 321G.7(2). Terms of this contract shall, at a minimum, direct the receiving party to identify and make publicly available grant, cost-share program, and contract eligibility and selection criteria; accounting, auditing, and reporting requirements; termination terms; and unspent money repayment processes. Any contract entered into pursuant to this rule shall be available on the department's website or upon request from department snowmobile program staff.

This rule is intended to implement Iowa Code section 321G.7(2).

ITEM 2. Rescind rules **571—47.30(321G)** to **571—47.47(321G)**.

[Filed 8/9/18, effective 10/3/18]

[Published 8/29/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/29/18.

ARC 3984C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to fentanyl-related substances

The Board of Pharmacy hereby amends Chapter 10, "Controlled Substances," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 124.201 and 124.301.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 124.201 and 124.301.

Purpose and Summary

The amendment temporarily schedules fentanyl-related products that are not already listed in another schedule as Schedule I controlled substances in response to action taken by the federal Drug Enforcement Administration.

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 3758C**. The Board received one comment from the Iowa Pharmacy Association in support of the amendment. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on July 24, 2018.

Fiscal Impact

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

PHARMACY BOARD[657](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 Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on October 3, 2018.

The following rule-making action is adopted:

Adopt the following **new** paragraph **10.39(2)“an”**:

an. Any fentanyl-related substance that is not currently listed in any schedule of the Controlled Substances Act (CSA) and its isomers, esters, ethers, salts and salts of isomers, esters, and ethers.

[Filed 7/31/18, effective 10/3/18]

[Published 8/29/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/29/18.

ARC 3985C

PHARMACY BOARD[657]**Adopted and Filed****Rule making related to interchangeable biological products and labeling requirements**

The Board of Pharmacy hereby amends Chapter 18, “Centralized Prescription Filling and Processing,” and Chapter 22, “Unit Dose, Alternative Packaging, and Emergency Boxes,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 147.76 and 155A.28.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 155A.28 and 155A.32 and 2017 Iowa Acts, House File 305.

Purpose and Summary

The amendments incorporate language from 2017 Iowa Acts, House File 305, signed into law during the 2017 Legislative Session of the 87th General Assembly, which allows the substitution of interchangeable biological products and includes labeling requirements.

PHARMACY BOARD[657](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 25, 2018, as **ARC 3764C**. The Board received one comment from the Iowa Pharmacy Association in support of the amendments. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on July 24, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on October 3, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 18.3(4) as follows:

18.3(4) Central fill label requirements. The label affixed to the prescription container filled by a central fill pharmacy on behalf of an originating pharmacy shall include the following:

a. to c. No change.

d. The Except as provided in 657—subrule 8.19(7) for epinephrine auto-injectors or 657—subrule 8.19(8) for opioid antagonists, the name of the patient or, if such drug is prescribed for an animal, the species of the animal and the name of its owner;

e. to g. No change.

h. Unless otherwise directed by the prescriber, the name, strength, and quantity of the drug dispensed.

(1) If a pharmacist selects an equivalent drug product for a brand name drug product prescribed by a practitioner, the prescription container label shall identify the generic drug and may identify the brand name drug for which the selection is made, such as “(generic name) Generic for (brand name product)”;

(2) If a pharmacist selects a brand name drug product for a generic drug product prescribed by a practitioner, the prescription container label shall identify the brand name drug product dispensed and may identify the generic drug product ordered by the prescriber, such as “(brand name product) for (generic name)”;

(3) If a pharmacist selects an interchangeable biological product for the biological product prescribed by a practitioner, the prescription container label shall identify the interchangeable biological

PHARMACY BOARD[657](cont'd)

product dispensed and may identify the biological product prescribed by the practitioner, such as “(interchangeable biological product) for (biological product)”;

i. The initials or other unique identification of the pharmacist who performed drug use review.

ITEM 2. Amend subrule 22.1(3) as follows:

22.1(3) Labeling requirements.

a. and *b.* No change.

c. If a pharmacist selects a generically equivalent drug product for a brand name drug product prescribed by a practitioner, the label must identify the generic drug and may identify the brand name drug for which the selection is made. The dual identification allowed under this paragraph must take the form of the following statement on the label: “(generic name) Generic for (brand name product)”. If a pharmacist selects an interchangeable biological product for the biological product prescribed by a practitioner, the label shall identify the interchangeable biological product dispensed and may identify the biological product prescribed by the practitioner, such as “(interchangeable biological product) for (biological product)”.

d. and *e.* No change.

ITEM 3. Amend subrule 22.5(5) as follows:

22.5(5) Labeling requirements.

a. to *c.* No change.

d. If a pharmacist selects a generically equivalent drug product for a ~~brand-name~~ brand name drug product prescribed by a practitioner, the label must identify the generic drug and may identify the ~~brand-name~~ brand name drug for which the selection is made. The dual identification allowed under this paragraph must take the form of the following statement on the label: “(generic name) Generic for (~~brand-name~~ brand name product)”. If a pharmacist selects an interchangeable biological product for the biological product prescribed by a practitioner, the label shall identify the interchangeable biological product dispensed and may identify the biological product prescribed by the practitioner, such as “(interchangeable biological product) for (biological product)”.

[Filed 7/31/18, effective 10/3/18]

[Published 8/29/18]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/29/18.

ARC 3986C

REGENTS BOARD[681]

Adopted and Filed

Rule making related to PharmD application fee

The Board of Regents hereby amends Chapter 1, “Admission Rules Common to the Three State Universities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 262.9(3).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 262.9(3).

Purpose and Summary

The amendment to rule 681—1.7(262) reduces the University of Iowa PharmD application fee from \$100 to \$50. The purpose of this amendment is to encourage application for admission to the College of Pharmacy.

REGENTS BOARD[681](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 9, 2018, as **ARC 3780C**. 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 August 1, 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.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on October 3, 2018.

The following rule-making action is adopted:

Amend rule 681—1.7(262) as follows:

681—1.7(262) Application fees. Application fees required for admission to the University of Iowa, Iowa State University and the University of Northern Iowa are as follows:

University of Iowa

Undergraduate domestic student and nondegree student	\$40
Undergraduate international student	\$85
Graduate/professional domestic student	\$60
Graduate/professional international student	\$100
PharmD student	\$100 <u>\$50</u>
Reentry fee	\$20
Iowa dental advanced standing program (international DDS student)	\$250

REGENTS BOARD[681](cont'd)

Iowa State University

Undergraduate domestic student and nondegree student	\$40
Undergraduate international student	\$50
Graduate/professional domestic student	\$60
Graduate/professional international student	\$100
Veterinary Medicine	\$75

University of Northern Iowa

Undergraduate domestic student and nondegree student	\$40
Undergraduate international student	\$50
Graduate/professional domestic student	\$60
Graduate/professional international student	\$75
Reentry fee	\$20

This rule is intended to implement Iowa Code section 262.9(3).

[Filed 8/9/18, effective 10/3/18]

[Published 8/29/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/29/18.

AGENCY	RULE	DELAY
Corrections Department[201]	Amendments to chs 1, 5, 10, 11, 20, 38, 40 to 45, 47, 50, 51 [IAB 8/1/18, ARC 3929C]	Effective date of September 5, 2018, delayed 70 days by the Administrative Rules Review Committee at its meeting held August 14, 2018. [Pursuant to §17A.4(7)]