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PREFACE

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

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

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

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

JACK EWING, Administrative Code Editor Phone: (515)281-6048 Email: Jack.Ewing@legis.iowa.gov
Publications Editing Office (Administrative Code) Phone: (515)281-3355 Email: AdminCode@legis.iowa.gov

CITATION of Administrative Rules

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

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

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).
IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).
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**PLEASE NOTE:**
Rules will not be accepted by the Publications Editing Office after 12 o'clock noon on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor.
If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.
†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more working days in advance of the deadline.
**Note change of filing deadline**
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IAB 8/28/19 ARC 4622C
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Two Ruan Center
601 Locust St.
Des Moines, Iowa
September 23, 2019
10 to 11 a.m.

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IAB 9/11/19 ARC 4653C
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IAB 8/14/19 ARC 4597C
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IAB 8/14/19 ARC 4598C
Board Office, Suite B
400 S.W. 8th St.
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IAB 8/14/19 ARC 4599C
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400 S.W. 8th St.
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9 to 10 a.m.

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Des Moines, Iowa
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IAB 9/11/19 ARC 4656C
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Lucas State Office Bldg.
Des Moines, Iowa
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IAB 8/28/19 ARC 4617C
Commission Office, Suite 100
1300 Des Moines St.
Des Moines, Iowa
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INSPECTIONS AND APPEALS DEPARTMENT
Employment Appeal Board
Child Advocacy Board
Racing and Gaming Commission
State Public Defender

IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM
IOWA PUBLIC INFORMATION BOARD
LAW ENFORCEMENT ACADEMY
LIVESTOCK HEALTH ADVISORY COUNCIL
LOTTERY AUTHORITY, IOWA
MANAGEMENT DEPARTMENT

Appeal Board, State
City Finance Committee
County Finance Committee

NATURAL RESOURCES DEPARTMENT
Energy and Geological Resources Division
Environmental Protection Commission
Natural Resource Commission
Preserves, State Advisory Board for

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE

PREVENTION OF DISABILITIES POLICY COUNCIL
PROpane EDUCATION AND RESEARCH COUNCIL, IOWA
PUBLIC DEFENSE DEPARTMENT

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT

Military Division

PUBLIC EMPLOYMENT RELATIONS BOARD
PUBLIC HEALTH DEPARTMENT
Professional Licensure Division
Dental Board
Medicine Board
Nursing Board
Pharmacy Board

PUBLIC SAFETY DEPARTMENT

RECORDS COMMISSION
REGENTS BOARD

Archaeologist

REVENUE DEPARTMENT
SECRETARY OF STATE

SHEEP AND WOOL PROMOTION BOARD, IOWA
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VOTER REGISTRATION COMMISSION

WORKFORCE DEVELOPMENT DEPARTMENT

Labor Services Division
Workers’ Compensation Division
Workforce Development Board and Workforce Development Center Administration Division
IOWA PUBLIC INFORMATION BOARD

Notice of Intended Action

Proposing rule making related to board actions and exempt sessions and providing an opportunity for public comment

The Iowa Public Information Board (IPIB) hereby proposes to amend Chapter 2, “Complaint Investigation and Resolution Procedures,” and Chapter 8, “Open Meetings,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 23.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 17A, 21 and 22.

Purpose and Summary

The IPIB seeks to remove paragraph 2.2(4)“e” from Chapter 2. The IPIB also proposes to add rule 497—8.3(21,22) relating to exempt sessions to Chapter 8. The new rule explains Iowa Code section 21.9.

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 IPIB for a waiver of the discretionary provisions, if any, pursuant to 497—Chapter 9.

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 IPIB no later than 4:30 p.m. on October 1, 2019. Comments should be directed to:

Margaret Johnson
Iowa Public Information Board
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Phone: 515.725.1783
Fax: 515.725.1789
Email: margaret.johnson@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 subrule 2.2(4) as follows:

2.2(4) Board action. Upon receipt and review of the staff investigative report and any recommendations, the board may:
  a. Redirect the matter for further investigation;
  b. Dismiss the matter for lack of probable cause to believe a violation has occurred;
  c. Make a determination that probable cause exists to believe a violation has occurred, but, as an exercise of administrative discretion, dismiss the matter; or
  d. Make a determination that probable cause exists to believe a violation has occurred, designate a prosecutor and direct the issuance of a statement of charges to initiate a contested case proceeding; or
  e. Direct administrative resolution of the matter under subrule 2.1(6) without making a determination as to whether a violation occurred.

ITEM 2. Adopt the following new rule 497—8.3(21,22):

497—8.3(21,22) Exempt sessions.

8.3(1) An Iowa Code section 21.9 exempt session is a meeting to discuss strategy concerning employment conditions of employees of a governmental body who are not covered by a collective bargaining agreement under Iowa Code chapter 20.

8.3(2) “Employment conditions” include wages, hours, vacations, insurance, holidays, leaves of absence, shift differentials, overtime compensation, supplemental pay, seniority, transfer procedures, job classifications, health and safety matters, evaluation procedures, procedures for staff reduction, in-service training, and grievance procedures.

8.3(3) An exempt session does not fall under the requirements of Iowa Code chapter 21; therefore, notice, a tentative agenda, minutes, and other requirements of Iowa Code chapter 21 do not apply.

8.3(4) The purpose of an exempt session is to allow a governmental body to formulate its position on the terms and conditions of employment for non-union employees in private. An exemption from the open meetings law for this purpose parallels the exemption provided by Iowa Code chapter 20 for governmental bodies negotiating with employee unions. Meetings to evaluate the professional competency of an individual whose appointment, hiring, performance, or discharge is being considered are subject to the requirements of Iowa Code section 21.5(1) “i.”

This rule is intended to implement Iowa Code section 21.9.

ARC 4653C

MEDICINE BOARD[653]

Notice of Intended Action

Proposing rule making related to medical conditions for which medical cannabidiol may be used and providing an opportunity for public comment

The Board of Medicine hereby proposes to amend Chapter 13, “Standards of Practice and Principles of Medical Ethics,” Iowa Administrative Code.
Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapters 124E, 147, 148 and 272C.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 124E.

Purpose and Summary

This proposed rule making amends subrule 13.15(1) by striking the word “pediatric” from the phrase “severe, intractable pediatric autism with self-injurious or aggressive behaviors” in the list of debilitating medical conditions for which medical cannabidiol may be used.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on October 1, 2019. Comments should be directed to:

Kent Nebel
Iowa Board of Medicine
400 S.W. Eighth Street, Suite C
Des Moines, Iowa 50309
Phone: 515.281.7088
Fax: 515.242.5908
Email: kent.nebel@iowa.gov

Public Hearing

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

October 1, 2019
9 to 10 a.m.
Board Office, Suite C
400 S.W. Eighth 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:

Amend subrule 13.15(1), definition of “Debilitating medical condition,” as follows:

“Debilitating medical condition” means any of the following:

1. Cancer, if the underlying condition or treatment produces one or more of the following:
   ● Severe or chronic pain.
   ● Nausea or severe vomiting.
   ● Cachexia or severe wasting.
2. Multiple sclerosis with severe and persistent muscle spasms.
3. Seizures, including those characteristic of epilepsy.
4. AIDS or HIV as defined in Iowa Code section 141A.1.
6. Amyotrophic lateral sclerosis.
7. Any terminal illness, with a probable life expectancy of under one year, if the illness or its treatment produces one or more of the following:
   ● Severe or chronic pain.
   ● Nausea or severe vomiting.
   ● Cachexia or severe wasting.
8. Parkinson’s disease.
10. Ulcerative colitis.
11. Severe, intractable pediatric autism with self-injurious or aggressive behaviors.

ARC 4654C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to expedited licensing of spouses of active duty military personnel and providing an opportunity for public comment

The Professional Licensure Division hereby proposes to amend Chapter 20, “Military Service and Veteran Reciprocity,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272C.4 as amended by 2019 Iowa Acts, chapter 9.

Purpose and Summary

2019 Iowa Acts, chapter 9 (House File 288), amends Iowa Code section 272C.4, which governs the duties of the boards for establishing procedures to expedite the licensing of individuals who are
veterans or actively serving in the military. This change in the Iowa Code directs the Division to establish procedures to expedite the licensing of spouses of active duty members of the military forces in cases in which the spouse is already licensed in another state where the professional and occupational licensing requirements are substantially equivalent to Iowa’s requirements.

_Fiscal Impact_

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

_Jobs Impact_

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

_Waivers_

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

_Public Comment_

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on October 1, 2019. Comments should be directed to:

Susan Reynolds  
Professional Licensure Division  
Iowa Department of Public Health  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Email: susanreynolds@idph.iowa.gov

_Public Hearing_

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

October 1, 2019  
9:30 to 10 a.m.  
Fifth Floor Conference Room 526  
Lucas State Office Building  
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person’s comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

_Review by Administrative Rules Review Committee_

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

The following rule-making actions are proposed:
IAB

PROFESSIONAL LICENSURE DIVISION[645](cont’d)

ITEM 1. Amend 645—Chapter 20, title, as follows:
MILITARY SERVICE, AND VETERAN RECIPROCITY, AND SPOUSES OF ACTIVE DUTY SERVICE MEMBERS

ITEM 2. Amend rule 645—20.1(85GA,ch1116), parenthetical implementation statute, as follows:

645—20.1(85GA,ch1116 272C) Definitions.

ITEM 3. Adopt the following new definition of “Spouse” in rule 645—20.1(272C):
“Spouse” means a spouse of an active duty member of the military forces of the United States.

ITEM 4. Amend rule 645—20.2(85GA,ch1116), parenthetical implementation statute, as follows:

645—20.2(85GA,ch1116 272C) Military education, training, and service credit.

ITEM 5. Amend rule 645—20.3(85GA,ch1116) as follows:

645—20.3(85GA,ch1116 272C) Veteran and active duty military spouse reciprocity.

20.3(1) A veteran or spouse with an unrestricted professional license in another jurisdiction may apply for licensure in Iowa through reciprocity. A veteran or spouse must pass any examinations required for licensure to be eligible for licensure through reciprocity and will be given credit for examinations previously passed when consistent with board laws and rules on examination requirements. A fully completed application for licensure submitted by a veteran or spouse under this subrule shall be given priority and shall be expedited.

20.3(2) Such an application shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant’s status as a veteran under Iowa Code section 35.1(2) or a spouse of an active duty member of the military forces of the United States.

20.3(3) Upon receipt of a fully completed licensure application, the board shall promptly determine if the professional or occupational licensing requirements of the jurisdiction where the veteran applicant is licensed are substantially equivalent to the licensing requirements in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. As relevant to the license at issue, the board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examinations required for licensure.

20.3(4) The board shall promptly grant a license to the veteran applicant if the veteran applicant is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant’s disciplinary or criminal background.

20.3(5) If the board determines that the licensing requirements in the jurisdiction in which the veteran applicant is licensed are not substantially equivalent to those required in Iowa, the board shall promptly inform the veteran applicant of the additional experience, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

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

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

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

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

20.3(6) A veteran An applicant who is aggrieved by the board’s decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board’s decision. The provisions of 645—Chapter 11 shall apply, except that no fees or costs shall be assessed against the veteran applicant in connection with a contested case conducted pursuant to this subrule.

ITEM 6. Amend 645—Chapter 20, implementation sentence, as follows:

These rules are intended to implement 2014 Iowa Acts, chapter 1116, division VI, Iowa Code section 272C.4 as amended by 2019 Iowa Acts, chapter 9.

ARC 4656C

PROFESSIONAL LICENSURE DIVISION[645]

Amended Notice of Intended Action

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

The Board of Mortuary Science hereby proposes to amend Chapter 100, “Practice of Funeral Directors, Funeral Establishments, and Cremation Establishments,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 156 and Iowa Code section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 21, 142D, 144C, 147, 156 and 272C.

Purpose and Summary

The proposed amendment makes rule 645—100.9(144) consistent with the rules and policies of the Iowa Department of Public Health that relate to the purpose of issuing disinterment permits in accordance with Iowa Code section 144.34.

Reason for Amendment of Notice of Intended Action

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 13, 2019, as ARC 4306C. No public comments were received. The proposed amendment has been changed since publication of the Notice. Because cremation is considered final disposition that does not require a disinterment permit, the Board struck the words “or cremated remains” from subrule 100.9(6).
Fiscal Impact
This rule making has no fiscal impact to the State of Iowa.

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

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

Public Comment
Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on October 1, 2019. Comments should be directed to:

Susan Reynolds
Professional Licensure Division
Department of Public Health
Lucas State Office Building
Des Moines, Iowa 50319
Fax: 515.281.3121
Email: susan.reynolds@idph.iowa.gov

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

October 1, 2019
9 to 9:30 a.m.  Fifth Floor Board Conference Room 526
Lucas State Office Building
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person’s comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

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

The following rule-making action is proposed:
Amend subrule 100.9(6) as follows:
100.9(6) Disinterment permits shall be required for any relocation of a human remains or cremated remains from the original site of interment or entombment if the purpose is for autopsy or reburial.
PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Proposing rule making related to closed circuit surveillance systems and providing an opportunity for public comment

The Public Safety Department hereby proposes to amend Chapter 141, “Closed Circuit Surveillance Systems,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 99F.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 99F.4.

Purpose and Summary

The purpose of amending Chapter 141, regarding closed circuit surveillance systems, is to incorporate sports wagering into the existing scheme of surveillance required of gambling activities in the state. The goal is to ensure that surveillance systems are able to capture all sports wagering-related activities within approved areas of a casino.

Fiscal Impact

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

Jobs Impact

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

Waivers

Pursuant to the provision of rule 661—10.222(17A), the Department does not have authority to waive requirements established by statute. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 1, 2019. Comments should be directed to:

Chandlor Collins
Department of Public Safety
Oran Pape State Office Building
215 East 7th Street
Des Moines, Iowa 50319
Phone: 515.725.6185
Email: collins@dps.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. Adopt the following new definition of “Designated sports wagering area” in rule 661—141.1(99F):

“Designated sports wagering area” means an area, as designated by a licensee and approved by the commission, in which sports wagering is conducted.

ITEM 2. Amend rule 661—141.1(99F), definition of “Gambling activities,” as follows:

“Gambling activities” means participating in or wagering on gambling games on the gaming floor any form of on-site wagering as defined by Iowa Code chapter 99F and approved by the commission; the movement, storage, and handling of uncounted gambling revenues; the manual exchange of money for forms of wagering credit on the gaming floor; public entrance into and public egress from the gaming floor, except that egress through emergency exits that are actively alarmed is not included; and any other activities so defined by the commission.

ITEM 3. Amend rule 661—141.6(99F) as follows:

661—141.6(99F) Required surveillance. Every licensee or operator shall conduct and record, as required by either the commission or the DCI, surveillance that allows clear, unobstructed views of all on-site gambling activities in the following areas of the gaming floor, designated sports wagering area, and related areas, land-based facilities, and racetrack enclosures:

141.6(1) Slot machines. Every licensee who exposes slot machines for play shall install, maintain, and operate a casino surveillance system that possesses the capability to monitor and record the slot machine number.

141.6(2) Table games. The surveillance system must possess the capability to monitor and record all gaming or card table surfaces; table number, including table bank trays, with sufficient clarity to permit identification of all chips, cash, card values, and the outcome of the game; dice in craps games, with sufficient clarity to read the dice in their stopped position after each roll; and all roulette tables and wheels must be capable of being monitored and recorded on a split screen to permit views of both the table and the wheel on one monitor screen. Each table or card game shall have the capability of being monitored and recorded by no less than two cameras.

141.6(3) Progressive table games. Each progressive table game must be monitored by dedicated coverage that provides views of the table surface so that the card values and card suits can be identified and a view of the progressive meter jackpot amount.

141.6(4) Casino cage, slot change booth, sports wagering counter, and self-service coin, token, sports wagering or ticket redemption center. The surveillance system must possess the capability to monitor and record a general overview of activities occurring in each casino cage, slot change booth, sports wagering counter and self-service coin, token, sports wagering or ticket redemption center with sufficient clarity to identify patrons and employees at the counter area, cash drawers, vaults, safes, countertops, coin and currency counting machines, and chip and token storage, and to identify chip,
token, and currency denominations. The casino cage and sports wagering counter, and slot change booth area in which fills, credits, sports wagering tickets, and jackpots are transacted must be monitored by dedicated coverage that provides views with sufficient clarity to identify the chip, token, and currency values and the amounts on the fill/credit slips.

141.6(5) Count rooms. The surveillance system must possess the capability to monitor and record all areas within the hard or soft count room, including walls, doors, scales, wrapping machines, coin sorters, currency counters, vaults, safes, and general work surfaces, whenever funds or persons are present. The counting surface in the soft count room must be made of a transparent material. Any area where uncounted coin or currency is stored must be monitored by dedicated coverage. In addition, the hard count and soft count process must be monitored by dedicated coverage.

141.6(6) Movement of funds. The surveillance system must possess the capability to monitor and record the movement of cash, gaming chips, tokens, drop boxes and drop buckets. All casino and designated sports wagering area entrance and exit doors, elevators, stairs, gangplanks, and loading and unloading areas shall also possess the capability to be monitored and recorded if they are utilized for the movement of uncounted moneys, tokens, or chips.

141.6(7) Admissions entrance and exits. The admissions entrance and exit areas of the excursion gambling boat and racetrack enclosures must be monitored by dedicated coverage with sufficient clarity to identify patrons and employees at the admissions entrance and exit areas.

141.6(8) Overall views. The surveillance system must possess the capability to monitor and record the casino pit area and general casino floor with sufficient clarity to permit identification of players, employees, patrons, and spectators.

141.6(9) Additional coverage. Rescinded IAB 4/22/09, effective 4/1/09.

141.6(10) Digital systems. All areas that require dedicated coverage and all images viewed on a surveillance operator’s working monitor shall be recorded at a sufficient rate of images per second so that, when played back in real time, there is no motion loss detectable to the human eye.

ARC 4652C

PUBLIC SAFETY DEPARTMENT[661](cont’d)

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Proposing rule making related to the state fire marshal division and providing an opportunity for public comment


Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 100.1 and 100.18.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 100.1 and 100.18.

Purpose and Summary

The purpose of the proposed amendments to Chapter 200 is to update the operation of the State Fire Marshal Division. The update includes streamlining the appointment of the State Fire Marshal and amending the process for building plan approvals and fire investigations. Chapter 210 is amended to update the paragraph cited in subrule 210.5(2).

Fiscal Impact

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

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

Waivers

Pursuant to the provisions of rule 661—10.222(17A), the Department does not have authority to waive requirements established by statute. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 1, 2019. Comments should be directed to:

Chandlor Collins
Department of Public Safety
Oran Pape State Office Building
215 East 7th Street
Des Moines, Iowa 50319
Phone: 515.725.6185
Email: collins@dps.ia.state.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 661—Chapter 200 as follows:

CHAPTER 200
STATE FIRE MARSHAL ADMINISTRATION

661—200.1(100) Description. The state fire marshal division is created within the department of public safety. The division headquarters is located in the State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. The main telephone number for the division is (515)725-6145. The general e-mail address for the division is fminfo@dps.state.ia.us.

200.1(1) The director of the division is the state fire marshal, who is appointed by and reports to the commissioner of public safety. There is an assistant fire marshal, appointed by the fire marshal, who also
serves as chief of the arson and explosives bureau. The assistant fire marshal may act in place of the state fire marshal if the state fire marshal position is vacant or the state fire marshal is absent or unavailable. The director of investigative operations appoints the state fire marshal. The state fire marshal reports to the director of investigative operations.

200.1(2) The division includes the following four five bureaus:
a. Arson and explosives bureau.
b. Fire prevention bureau.
c. Fire service training bureau.
d. Building code bureau.
e. Electrical bureau.

661—200.2(100) No change.

661—200.3(100) Building plan approval and plan review fees. Plans for the proposed construction of certain new buildings or additions, alterations or changes to existing buildings require the approval of the state fire marshal and shall be submitted to the building code bureau.

200.3(1) Plans for initial construction or alterations, changes, additions, renovations or remodeling of the following shall be submitted to the building code bureau, unless the plans have been submitted to a local fire or building department for approval based upon compliance with the rules of the state fire marshal or a local fire ordinance recognized in rule 661—201.5(100):
   a. Any educational building or facility serving kindergarten through twelfth grade,
   b. Any college or university building or facility,
   c. Any child care facility intended to serve seven or more children at one time,
   d. Any correctional facility, or
   e. Any gaming facility,
   f. Any children’s facility, or
   g. Any specific occupancy addressed by 661—Chapter 202.

200.3(2) Plans for initial construction or alterations, changes, additions, renovations or remodeling of the following shall be submitted to the building code bureau for approval based upon compliance with the rules of the state fire marshals. Assisted living facilities and residential care facilities shall be considered condition 2 in accordance with the International Building Code definition.
   a. Any facility housing an adult day service,
   b. Any assisted living facility,
   c. Any residential care facility,
   d. Any acute residential care facility,
   e. Any elder group home, or
   f. Any facility owned by the state or an agency of the state.

200.3(3) No change.

200.3(4) Preliminary reviews. The responsible design professional for a project shall schedule a preliminary meeting with the building code bureau to discuss compliance issues early in the design development phase. The responsible design professional shall contact the bureau to schedule the preliminary meeting. There is no separate fee for a preliminary meeting. If the responsible design professional plans to request approval to bid the project as part of the preliminary meeting, the responsible design professional shall request a copy of the document “Preliminary Meeting Checklist” at the time the meeting is scheduled and shall be prepared to address all applicable issues identified on the checklist at the preliminary meeting. Approval to bid the project shall not be given unless all applicable issues identified on the checklist have been addressed to the satisfaction of the state fire marshal or the state fire marshal’s designee.

200.3(4) 200.3(5) Building plan Construction document submittals.

   a. Working plans Plans and specifications. When approval of building construction projects is required by this chapter or when requested by the submitter for other building construction projects covered by this chapter, one complete set of the final working plans and specifications shall be submitted
to as required by the building code bureau. The submittal shall comply with Iowa Code chapters 542B and 544A and with 661—subrule 300.4(1). Each submittal shall be examined, and the submittal shall be notified of the findings. If the working plans and specifications comply with this chapter, an approval letter shall be sent to the submitter.

b. Shop drawings. Shop drawings, equipment specifications and supporting documentation for fire alarm and sprinkler protection and life safety systems shall be submitted for review and approval and signed by a responsible managing employee licensed in accordance with Iowa Code chapter 100C. If the system is being installed as part of a project which has been designed by an engineer or architect, the submittal shall be approved by the responsible architect or engineer prior to submittal to the fire marshal. Each submittal shall be examined, and the submittal shall be notified of the findings. Only one copy of shop drawings, equipment specifications and supporting documentation is required. Staff of the building code bureau shall send a letter of approval to the submitter in lieu of returning approved shop drawings.

c. Approvals. Each submittal shall be examined, and the submittal shall be notified of the findings. If the submittal complies with this chapter, an approval letter shall be sent to the submitter. If the submittal is not acceptable, the building code bureau shall notify the submitter of the deficiencies. If, after such review, the submitter disputes the findings of the plan reviewer, the submitter may request that the disputed questions be reviewed by the state fire marshal or the state fire marshal’s designee.

d. Changes. No changes shall be made to the approved final working plans and specifications construction documents or shop drawings unless the changes are submitted to and approved by the building code bureau.

200.3(5) If the blueprints and specifications are not acceptable, the building code bureau shall notify the submitter of the deficiencies and request that the submitter either forward changes or request a review of the blueprints and specifications with the building code bureau.

200.3(6) If, after such review, the submitter disputes the findings of the plan reviewer, the submitter may request that the disputed questions be reviewed by the building code commissioner and the chief of the fire prevention bureau.

200.3(7) If the submitter disputes the findings of the building code commissioner and the chief of the fire prevention bureau, the submitter may appeal to the fire marshal under the provisions of rule 661—200.2(100).

Note: 661—subrule 300.4(2) establishes fees for plan reviews.

200.3(9) The responsible design professional for a project shall schedule a preliminary meeting with the building code bureau to discuss code compliance issues early in the design development phase. The responsible design professional shall contact the bureau to schedule the preliminary meeting. There is no separate fee for a preliminary meeting. If the responsible design professional plans to request approval to bid the project as part of the preliminary meeting, the responsible design professional shall request a copy of the document “Preliminary Meeting Checklist” at the time the meeting is scheduled and shall be prepared to address all applicable issues identified on the checklist at the preliminary meeting. Approval to bid the project shall not be given unless all applicable issues identified on the checklist have been addressed to the satisfaction of the state fire marshal or the state fire marshal’s designee.

200.3(10) A construction project that is subject to a provision of this chapter or 661—Chapter 201 that requires compliance with a provision of the 2015 edition of any code published by the International Code Council may comply with either the current requirements of this chapter and 661—Chapter 201 or the provisions of this chapter and 661—Chapter 201 as they applied prior to July 1, 2016, if construction has commenced on or prior to September 30, 2016. “Commenced” means the submitter has received preliminary approval of the plans. If a construction project receives preliminary approval based upon the provisions of this chapter and 661—Chapter 201 as they applied prior to July 1, 2016, then final approval must be received on or prior to December 31, 2016.

661—200.4(100,101,101A) Inspections and inspection fees. Certain buildings, facilities, and installations as designated in the Iowa Code are required to comply with the Iowa Code and rules of the
state fire marshal. The state fire marshal determines and enforces such compliance. To do so, the state fire marshal or any employee of the state fire marshal or local fire department authorized by the state fire marshal may enter such building or premises at any time without notice to inspect the building or premises.

200.4(1) No change.

200.4(2) An inspection to evaluate compliance with the rules of the state fire marshal shall be conducted by the state fire marshal or by a consultant as requested by the state fire marshal. A consultant is a person with the necessary degree of training, education or experience to examine a system within a building required to be in compliance with the rules of the state fire marshal and determine if such the system or systems are in compliance with such requirements. If a consultant who is not employed by the state fire marshal is engaged to conduct an inspection, the consultant shall be accompanied by an employee of the state fire marshal or a local fire department while conducting the inspection.

200.4(3) No change.

200.4(4) An employee of the state fire marshal or an employee of a local fire department acting on behalf of the state fire marshal, upon arriving at a building, facility, or installation in order to conduct an inspection, shall advise the owner or the person in control of the building, if that person is available. If a person in such a position cannot be contacted, the inspection shall commence in any event. If the owner or the owner’s representative wishes to accompany the employee during the inspection, the owner or the owner’s representative may do so, provided that the inspection is not delayed.

200.4(5) No change.

200.4(6) Upon completion of the inspection, if the building, facility, or installation does not comply with applicable laws or rules, the employee or consultant shall identify specific provisions with which the building, facility, or installation does not comply and shall notify the owner. The owner may be ordered to correct or repair the deficiency. The owner may order the building, facility, or installation removed or demolished, in lieu of correcting the deficiency.

a. Copies of the notice of deficiencies or order shall be distributed to the state fire marshal’s office and the fire department having jurisdiction. The employee or consultant signing the order shall retain a copy.

b. The time allowed to comply with the order shall be determined by the employee or consultant, who shall consider the likelihood that a fire may occur, the possibility of personal injury or property loss, the cost and availability of materials and labor to correct, repair, remove or demolish, and other relevant information.

c. If the owner of the building, facility, or installation does not agree with the deficiency findings and order, the owner may appeal the order to the state fire marshal under rule 661—200.2(100).

200.4(7) Inspection fees. The following fees shall apply respectively to inspections of the facilities of the types listed where a certificate of inspection from the state fire marshal is required in order to obtain licensure or certification under Iowa law. The inspection fee shall be paid by check made payable to the State Fire Marshal Division, Iowa Department of Public Safety. If a certificate of occupancy is required for use of the building, facility, or installation, the certificate shall not be issued until the inspection fee has been paid.

a. to d. No change.

e. When an initial inspection which requires a fee pursuant to paragraphs paragraph 200.4(7) “a,” “b,” or “c” of this subrule results in a finding of a deficiency or deficiencies which require a reinspection, the initial reinspection shall be performed without the imposition of any additional fee. If the original deficiency or deficiencies have not been corrected at the time of the initial reinspection, then a fee of $125 for each additional reinspection after the initial reinspection is required until the original deficiency or deficiencies have been corrected.

f. The fee for a suitability inspection of a prospective site for a building, facility, or installation which may seek licensure or certification from the state of Iowa is $150.

661—200.5(100) Certificates Order for licensure. Several Iowa statutes provide that a license to conduct certain functions may not be issued until the state fire marshal has approved the building,
facility, or installation to be used for such function. Upon completion of an inspection showing the building, facility, or installation to be in compliance with applicable rules of the state fire marshal, the owner or the owner’s agent may request the issuance of a certificate of occupancy specifying an order granting that the building, facility, or installation is approved for the specific use requiring licensure. Upon receipt of the request, provided that the building, facility, or installation is found to be in compliance with applicable rules of the state fire marshal and all applicable fees have been paid, the state fire marshal shall issue such a certificate an order. If the building, facility, or installation is found not to be in compliance, the person requesting the certificate order may file a petition requesting a review, and the same procedure is used as if an order were being appealed. Upon completion of the appeal process, if the building, facility, or installation is found to be in compliance, a certificate an order granting compliance will then be issued.

661—200.6(100) Fire investigations.

200.6(1) The state fire marshal has the authority to investigate any fire in the state of Iowa.

a. The state fire marshal may initiate an investigation of any fire at the discretion of the state fire marshal.

b. Any local fire or law enforcement official may request the state fire marshal to investigate any fire. Such investigation shall be undertaken at the discretion of the state fire marshal.

200.6(2) Local fire officials have the primary responsibility to and shall investigate fires. A local fire official who investigates a fire shall file a report of each fire investigated with the state fire marshal division within one week of the fire even if the state fire marshal division participated in, assisted with, directed or supervised the fire investigation. Upon written request, the state fire marshal may grant an extension of the time for filing this report for a period not to exceed 14 days. The request shall set forth compelling reasons for such extension.

200.6(3) A local fire official who investigates a fire shall immediately report a fire that involves death or suspected arson and shall do so by contacting the member of the fire marshal division assigned to that area or, if that member is not available, another member of the fire marshal division. If direct contact with the fire marshal division is impractical, the local fire official may request the county sheriff to relay the information to the fire marshal division via Iowa state patrol communications the Iowa department of public safety state radio. If the call meets the policy set forth by the state fire marshal, the dispatcher shall forward a message to the state fire marshal duty officer.

200.6(4) No change.

200.6(5) The state fire marshal may assist a local officer in the investigation of any fire. The state fire marshal may direct, conduct, or assist in the investigation of a fire and may arrange for the participation of a consultant in the investigation.

661—200.7(100) No change.

661—200.8(100) Inspection based on complaint.

200.8(1) No change.

200.8(2) Initial determination. The state fire marshal, upon receipt of the information, shall make an initial determination whether there are sufficient allegations to warrant an inspection. The state fire marshal shall notify the complainant that:

a. If, in the fire marshal’s opinion, the complaint fails to warrant an inspection, the fire marshal shall so advise the complainant. The details of the complaint fail to warrant an inspection, or

b. If the fire marshal determines that an inspection is warranted, the fire marshal shall so advise the county attorney, the requester and the person(s) identified as the owner(s). An inspection will be conducted.

200.8(3) Cause to be inspected. After initial determination, the state fire marshal or the state fire marshal’s designee shall cause the inspection of the building, facility, or installation to determine if:
a. By want of proper repair, or by reason of age and dilapidated condition, the building, facility, or installation is especially liable to fire and is so situated as to endanger other buildings, facilities, installations, property or persons, or

b. The building, facility, or installation contains combustibles, explosives or flammable materials dangerous to the safety of any buildings, premises or persons.

200.8(4) Final decision. Upon completion of the inspection, the state fire marshal or the state fire marshal’s designee shall decide if the building, facility, or installation needs to be removed or repaired.

   a. If the building, facility, or installation complies with applicable laws or rules and no deficiencies are found, the state fire marshal shall accordingly notify the county attorney, the owner and the requester complainant.

   b. If any deficiencies are found, and the building, facility, or installation is within the corporate limits of a city, the state fire marshal shall notify the owner and the mayor and the clerk of said city of the deficiencies and the need for repairs or removal.

   c. If any deficiencies are found, and the building, facility, or installation is outside the corporate limits of any city, the state fire marshal shall specifically identify such deficiencies and prepare an order to correct or repair the deficiencies or remove or demolish the building, facility, or installation. Such notice and order shall be sent to the county attorney with a request that the notice and order be examined by the county attorney.

   NOTE: An owner who receives an order from the state fire marshal may appeal the order using procedures established in rule 661—200.2(100).

200.8(5) Verification of legal description. The county attorney shall, upon receipt of the fire marshal’s notice and order, verify the legal description and identification of the property owner and shall advise the state fire marshal how to properly serve the order.

200.8(6) and 200.8(7) No change.

200.8(8) Reasonable time to comply. The order shall give the owner a reasonable time to comply with its mandate(s). The state fire marshal shall determine what constitutes a reasonable time by considering the likelihood of fires, the possibility of personal injury or property loss, the cost, availability of materials and labor to correct, repair, remove or demolish the building, facility, or installation and other reasonable, relevant information.

200.8(9) Reinspection. If the owner of the building, facility, or installation elects not to challenge the state fire marshal’s order, the state fire marshal shall, at the end of the period during which compliance was required, conduct another inspection of the building, facility, or installation.

   a. If the state fire marshal finds that the order has been complied with, the state fire marshal shall notify the county attorney, owner and requester the complainant of this fact.

   b. If the state fire marshal finds that the order has not been complied with, the state fire marshal shall notify the county attorney of noncompliance.

   NOTE: An owner who receives a notice of noncompliance from the state fire marshal may appeal the notice using procedures established in rule 661—200.2(100).

200.8(10) Failure to comply. Upon receipt from the state fire marshal of notice of the owner’s failure to comply, the county attorney shall:

   a. Institute the procedure necessary to subject the owner to a penalty of $10 for each day the owner fails to comply, and

   b. Confirm the legal description of the property; the owner’s name and address; the alleged deficiencies of the building, facility, or installation; that an inspection was conducted; that some deficiency was found; that the owner was properly served, notified and given an adequate opportunity to repair the deficiency; and that the deficiency has not been remedied, and

   c. Advise the state fire marshal that destruction is appropriate.

200.8(11) Final action taken.

   a. The state fire marshal, upon the advice of the county attorney, may repair, remove or destroy the building, facility, or installation. Such destruction may occur by:

      (1) Permitting the local fire service to burn the building, facility, or installation as a training exercise;
b. (2) Asking for public bids on the building, facility, or installation; or

e. If significant costs are anticipated, the state fire marshal may request funds from the Iowa executive council.

661—200.9(100A) Sharing of insurance company information with the state fire marshal. Insurance companies shall provide specified information to the state fire marshal as follows:

200.9(1) Whenever an insurance company has reason to believe that a fire loss insured by the company was caused by something other than an accident, the insurance company shall provide to the state fire marshal, or some other agency authorized to receive such information under Iowa Code chapter 100A, all information and material possessed by the company relevant to an investigation of the fire loss or a prosecution for arson.

200.9(2) Whenever the state fire marshal, or an agent or employee of the state fire marshal, requests in writing that an insurance company provide information in its possession regarding a fire to the state fire marshal, the insurance company shall provide all relevant information requested. Relevant information may include, but need not be limited to:

a. Insurance policy information relating to a fire loss under investigation, including information on the policy application.

b. Policy premium payment records.

c. History of previous claims made by the insured.

d. Material relating to the investigation of the loss, including the statement of any person, proof of loss, and other information relevant to the investigation.

200.9(3) No change.

661—200.10(100A) Release of information to an insurance company. An insurance company that has provided fire loss information to an authorized agency pursuant to Iowa Code section 100A.2 may request information relevant to the fire loss investigation from the state fire marshal. If the insurance company has provided information to an authorized agency other than the state fire marshal, the request shall include proof that information was provided. For purposes of this rule, the term “insurance company” shall include an attorney, adjuster or investigator engaged by the company in reference to the particular fire loss involved in the request even though the attorney, adjuster or investigator is not a full-time employee of the insurance company. The attorney, adjuster or investigator shall provide the state fire marshal with proof of authorization from the insurance company to act as its representative relative to the loss.

661—200.11(100A) Forms. These rules require the use of the following forms that are available from the state fire marshal.

200.11(1) When an insurance company has reason to believe that a fire loss has occurred, the company shall notify the state fire marshal on the form entitled Insurance Form Number One.

200.11(2) Requests for information by the state fire marshal, the state fire marshal’s agents or employees from an insurance company pursuant to Iowa Code section 100A.2 shall comply with the form entitled Insurance Form Number Two.

200.11(3) No change.

200.11(4) Requests for information by an insurance company from the state fire marshal shall comply with Insurance Form Number Four.

These rules are intended to implement Iowa Code chapters 100, 101 and 101A.

ITEM 2. Amend subrule 210.5(2) as follows:

210.5(2) Existing construction. All existing single-family units and multiple-unit residential buildings shall be equipped with smoke detectors as required in paragraph 210.3(11)“a.” subrule 210.3(12).
Proposing rule making related to public safety survivor benefits fund and providing an opportunity for public comment

The Public Safety Department hereby proposes to adopt new Chapter 292, “Public Safety Survivor Benefits Fund,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in 2019 Iowa Acts, Senate File 615, section 38.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, Senate File 615, section 38.

Purpose and Summary

The purpose of proposed Chapter 292 is to create the parameters that will regulate the distribution of the public safety survivor benefits fund. The rules in Chapter 292 include the application process and describe how organizations eligible for funding will be chosen by the Department.

Fiscal Impact

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

Jobs Impact

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

Waivers

Pursuant to the provisions of rule 661—10.222(17A), the Department does not have authority to waive requirements established by statute. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 1, 2019. Comments should be directed to:

Chandlor Collins
Department of Public Safety
Oran Pape State Office Building
215 East 7th Street
Des Moines, Iowa 50319
Phone: 515.725.6185
Email: collins@dps.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 661—Chapter 292:

CHAPTER 292
PUBLIC SAFETY SURVIVOR BENEFITS FUND

661—292.1(80) Purpose. These rules establish the operation of the public safety survivor benefits fund. This fund shall be used to assist the surviving families of eligible peace officers and fire fighters killed in the line of duty with the payment of costs associated with accident or health care coverage pursuant to Iowa Code section 509A.13C.

661—292.2(80) Definition. For the purposes of this chapter, “eligible peace officer or fire fighter” means a peace officer as defined in Iowa Code section 801.4, or a fire fighter, to which a line of duty death benefit is payable pursuant to Iowa Code section 97A.6(16), 97B.52(2), or 411.6(15).

661—292.3(80) Fund eligibility. To be awarded funding from the public safety survivor benefits fund, an applicant shall be a nonprofit organization that provides resources to assist the surviving families of eligible peace officers or fire fighters killed in the line of duty.

661—292.4(80) Procedure. Applications for the public safety survivor benefits fund shall be submitted to the Iowa Department of Public Safety, Commissioner’s Office, 215 East 7th Street, Des Moines, Iowa 50319. Applications shall be submitted annually by November 1.

292.4(1) Application process. An application shall contain all of the following:

a. The name and address of the organization,

b. Articles of incorporation of the organization,

c. The mission statement of the organization,

d. The employment identification number (EIN) of the organization,

f. A statement proposing how the grant will be used for the surviving families of eligible peace officers or fire fighters, and

g. Any other details that the department may deem useful in the evaluation of an award of the grants as set forth in this chapter.

292.4(2) Award determination.

a. The commissioner of the department or the commissioner’s designee shall review the applications and determine the organizations to receive grant funding. At least one organization for the surviving families of peace officers and one organization for the surviving families of fire fighters shall be chosen each year. Organizations shall be notified annually by December 1.

b. The department shall give first consideration to:

(1) Iowa Concerns of Police Survivors, Inc., and similar nonprofit organizations.
(2) Iowa Professional Fire Fighters, Inc., and similar nonprofit organizations.

292.4(3) Award disbursement. Chosen organizations shall receive the award by January 1.

292.4(4) Report required. All organizations receiving funding shall file a report with the department no later than July 1 for each year that funding is received. The report shall contain all of the following:
   a. The number of surviving families that received benefits associated with accident or health care coverage from the nonprofit organization,
   b. The number of surviving families that were denied benefits,
   c. The amount of actual benefits paid to each surviving family,
   d. The total amount of administrative costs associated with providing benefits to surviving families.

These rules are intended to implement Iowa Code section 80.47 as enacted by 2019 Iowa Acts, Senate File 615, section 38.

ARC 4649C

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


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 2018 Iowa Acts, House File 2321 and House File 2493. The Department needs to ensure its rules are properly updated and address these changes. Updates to deductibility of vacation pay and pensions, as well as the way in which the Department handles fraudulent overpayments and offsets, are made by these amendments. The additional rules for the implementation and administration of voluntary shared work will assist the Department in adding efficiency and clarity to the Voluntary Shared Work Program for the benefit of employers and employees.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 1, 2019. Comments should be directed to:

Nicholas Olivencia
Iowa Department of Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Email: nicholas.olivencia@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. Amend paragraph 23.43(4)“b” as follows:
   b. An individual who voluntarily quits supplemental part-time employment without good cause and has not requalified for benefits following the voluntary quit of supplemental 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 supplemental 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 supplemental part-time employer shall not be made, and benefit charges shall not be assessed against the supplemental part-time employer’s account; however, once the individual meets the requalification requirements following the voluntary quit without good cause of the supplemental part-time employer, the wages paid in the supplemental 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 employers. 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 of 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 first 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.

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 voluntary shared work employer shall submit a certification of hours worked by employees covered by an employer’s 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 approved work share plan. All subsequent weekly employer certifications shall be due no later than Monday (close of business) immediately following the benefit week. If the employer fails to submit the weekly certification by 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 4648C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Proposing rule making related to claims and benefits
and providing an opportunity for public comment

The Director of the Workforce Development Department hereby proposes to amend Chapter 24, “Claims and Benefits,” and Chapter 25, “Benefit Payment Control,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 96.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 96.

Purpose and Summary

These proposed amendments rescind a previous change that the Department has determined was not appropriate regarding the role of the administrative law judge in determining a disqualification for failure to report at a work development center as directed. Further clarifying rules may be proposed in the future.

Also, current procedures allow for an inequity to develop in cases of overpayment in which a claimant may have exhausted the claimant’s entire claim. This proposed rule making will ensure that claimants who are overpaid do not have that overpayment eliminated by the simple addition of claim weeks they would otherwise have been ineligible to receive.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 1, 2019. Comments should be directed to:
Nicholas Olivencia
Iowa Department of Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Email: nicholas.olivencia@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. Rescind paragraph 24.6(7)“f.”

ITEM 2. Amend subrule 25.8(1), introductory paragraph, as follows:

25.8(1) Good faith overpayment. If an individual has acted in good faith in claiming benefits for any week and it is later determined that the individual is not entitled to receive the benefits, the department shall recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment. During a benefit year in which the maximum benefit amount has been paid or the maximum number of weeks has been paid and an overpayment is established for any benefits paid that the individual was not entitled to during that benefit year, no additional benefits will be payable to offset the overpayment. The department shall mail the overpayment decision to the claimant’s last-known address. Once the overpayment amount has been established, an overpayment schedule shall be set up to leave a proper audit trail even if the claimant pays to the department a sum equal to the overpayment.

ARC 4647C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Proposing rule making related to benefit payment control
and providing an opportunity for public comment

The Director of the Workforce Development Department hereby proposes to amend 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 update Department policies for collecting and recovering overpayment balances from claimants who have received benefits to which the claimants were not entitled. Adding the ability to pay by credit card, and specifying that the second notice will be a demand letter rather than another billing statement, will assist the Department in recovering these balances and restoring the moneys to the unemployment insurance trust fund.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 1, 2019. Comments should be directed to:

Nicholas Olivencia
Iowa Department of Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Email: nicholas.olivencia@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. Amend paragraph 25.7(6)“c,” introductory paragraph, as follows:

c. If a claimant fails to respond to the first statement of overpayment, a second statement demand letter shall be sent 30 days later. The second statement demand letter notifies the claimant that full repayment must be made. If the claimant cannot make full repayment, the department will consider a monthly repayment agreement. Monthly amounts based on the minimum repayment agreement schedule below will be printed on the second billing demand letter. The first repayment is expected 40 ten days
ITEM 2. Amend paragraph 25.7(6)"d" as follows:

d. If a claimant fails to respond to the first repayment statement, a third notice demand letter shall be sent automatically in approximately 30 days. The department has the option to send a notice which allows the claimant another 10 days to make full repayment of the indebtedness or a partial payment with an acceptable signed repayment agreement to prevent further collection action by the department, or the department may send a lien warning letter as the third billing notice. This warning gives 10 days to make full payment which will prevent lien filing. The department may proceed with any appropriate lien or civil action to collect the debt, which would include, but not be limited to, a judgment in a court having jurisdiction over the matter. The same type of action may be pursued by the department in those cases where a claimant defaults on a repayment schedule.

ITEM 3. Amend paragraph 25.8(1)"a" as follows:

a. The department shall mail a first statement of overpayment to the claimant’s last-known address. This statement will request full repayment in the form of a negotiable check, money order, credit card payment, or bank draft payable to the Department of Workforce Development.

ITEM 4. Amend paragraph 25.8(1)"b" as follows:

b. If a claimant fails to respond to the first statement of overpayment, a second statement demand letter shall be sent 30 days later. The second statement demand letter notifies the claimant that full repayment must be made. If the claimant cannot make full repayment, the department will consider a monthly repayment agreement.
ACCOUNTANCY EXAMINING BOARD[193A]

Adopted and Filed

Rule making related to CPA examinations


Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 542.4.

State or Federal Law Implemented

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

Purpose and Summary

The amendment to Chapter 3 reflects a change in the availability of the certified public accountant (CPA) examinations. Instead of examinations being available during four annual examination windows with dark periods during which the examinations are not available, the Board is permitted to make examinations available year-round.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 19, 2019, as ARC 4507C. A public hearing was held on July 10, 2019, at 9 a.m. at the Professional Licensing Bureau Offices, 200 East Grand Avenue, Suite 350, Des Moines, Iowa. No one attended the public hearing.

Two public comments were received via email. Both comments expressed concern that the integrity of the examinations would be at risk if year-round testing was allowed. The executive officer of the Board replied with information from the test administrators that the examination item bank has grown to the point that it is highly unlikely a candidate will encounter the same items on repeat examinations, and blocking technology used on the examination prevents the candidate from seeing the same form of the examination in subsequent attempts of a section. Technology improvements have greatly reduced the time required to make updates to the examination in the test centers around the country and internationally.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on August 8, 2019.

Fiscal Impact

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

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.
ACCOUNTANCY EXAMINING BOARD[193A](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 193—Chapter 5.

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 16, 2019.

The following rule-making action is adopted:

Amend subrule 3.6(1) as follows:

3.6(1) Effective with the implementation of the computer-based examination, a candidate may take the required test subjects individually and in any order. Except as provided in rule 193A—3.7(542), credit for any subjects passed shall be valid for 18 months from the actual date the candidate sat for the subject, without the candidate’s having to attain a minimum score on any failed subject(s) and without regard to whether the candidate sat for any other subjects. The candidate shall also be subject to the following:

a. The candidate must pass all four subjects of the examination within a rolling 18-month period that begins on the date that the first subject is passed. If all four subjects are not passed within the 18-month period, credit for any subject taken outside the 18-month period shall expire.

b. If subject to paragraph 3.6(1)“c,” if a candidate fails a subject, the candidate cannot retake the same failed subject in an examination window. An examination window “examination window” refers to a three-month period in which a candidate has the opportunity to take the examination (comprised of two months when the examination is offered and one month when the examination will not be offered while routine maintenance is performed and the item bank is refreshed). Thus, the candidate will be able to sit for the examination two out of three months within an examination window.

c. If and when the board determines that examination system changes necessary to eliminate examination window limitations have been implemented, paragraph 3.6(1)“b” will no longer be effective and a candidate will be permitted to retake a subject once the candidate’s grade for any previous attempt of that same subject has been released.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/11/19.

ARC 4658C

MEDICINE BOARD[653]

Adopted and Filed

Rule making related to medical conditions for which medical cannabidiol may be used

The Board of Medicine hereby amends Chapter 13, “Standards of Practice and Principles of Medical Ethics,” Iowa Administrative Code.
Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapters 124E, 147, 148 and 272C.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 124E.

Purpose and Summary

This rule making amends subrule 13.15(1) by adding “corticobasal degeneration” to the list of debilitating medical conditions for which medical cannabidiol may be used.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 22, 2019, as ARC 4445C. A public hearing was held on June 11, 2019, at 9 a.m. at the Board’s office, Suite C, 400 S.W. Eighth Street, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on August 2, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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 16, 2019.

The following rule-making action is adopted:

Amend subrule 13.15(1), definition of “Debilitating medical condition,” as follows:

“Debilitating medical condition” means any of the following:

1. Cancer, if the underlying condition or treatment produces one or more of the following:
   ● Severe or chronic pain.
   ● Nausea or severe vomiting.
   ● Cachexia or severe wasting.
2. Multiple sclerosis with severe and persistent muscle spasms.
3. Seizures, including those characteristic of epilepsy.
4. AIDS or HIV as defined in Iowa Code section 141A.1.
6. Amyotrophic lateral sclerosis.
7. Any terminal illness, with a probable life expectancy of under one year, if the illness or its treatment produces one or more of the following:
   - Severe or chronic pain.
   - Nausea or severe vomiting.
   - Cachexia or severe wasting.
8. Parkinson’s disease.
10. Ulcerative colitis.
11. Severe, intractable pediatric autism with self-injurious or aggressive behaviors.

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ARC 4659C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to confidential records

The Department of Transportation hereby amends Chapter 4, “Public Records and Fair Information Practices,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 305.15 and 307.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 22.7(50), 80G.2 and 80G.3.

Purpose and Summary

These amendments, which are explained more specifically below, rescind subrules 4.4(3) and 4.9(23) because they are no longer necessary, amend subrule 4.9(15) to conform to current Iowa Code language, and update the implementation sentence of rule 761—4.9(22) to include the applicable Iowa Code sections.

Subrule 4.4(3) concerns release of confidential records by the Director of Transportation. After review with the Attorney General’s office, the Department determined that subrule 4.4(3) is unnecessary and that the procedure for records protected under Iowa Code chapter 22 is already comprehensively addressed in that Iowa Code chapter.

2017 Iowa Acts, chapter 122, sections 3 to 6, created Iowa Code chapter 80G, Undercover Law Enforcement — Privilege — Confidentiality. The amendment to subrule 4.9(15) implements Iowa Code sections 80G.2 and 80G.3.

Subrule 4.9(23) concerns records which contain information relating to security procedures, emergency preparedness and disaster recovery. Iowa Code section 22.7(50) was amended by 2017 Iowa Acts, chapter 156, which removed a paragraph stating that Iowa Code section 22.7(50) only applied to
TRANSPORTATION DEPARTMENT[761](cont’d)

information held by a government body that had adopted a rule or policy which identified the specific confidential records. Therefore, subrule 4.9(23), which includes the Department’s specific confidential records, is no longer needed.

The Records Commission approved the amendments at its meeting held on February 8, 2019.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 5, 2019, as ARC 4471C. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on August 12, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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 16, 2019.

The following rule-making actions are adopted:

 ITEM 1. Rescind and reserve subrule 4.4(3).

 ITEM 2. Amend subrule 4.9(15), introductory paragraph, as follows:

4.9(15) Certain Privileged and personnel records or information of law enforcement officers and undercover law enforcement officers, as specified in Iowa Code sections 80G.2 and 80G.3, as well as certain records regarding undercover driver’s licenses issued to certified peace officers employed by a local authority or by the state or federal law enforcement officers, as specified in 761—Chapter 625. (Iowa Code sections 22.7, 80G.2, 80G.3 and 321.189A)

 ITEM 3. Rescind and reserve subrule 4.9(23).

 ITEM 4. Amend rule 761—4.9(22), implementation sentence, as follows:

This rule is intended to implement Iowa Code chapters 22, 553 and 692; Iowa Code sections 17A.2, 17A.3, 21.5, 72.3, 80G.2, 80G.3, 313.10, 321.11, 321.11A, 321.19, 321.186, 321.189A, 321.266,
TRANSPORTATION DEPARTMENT[761](cont’d)


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