



IOWA ADMINISTRATIVE BULLETIN

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Pages 957 to 1057

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PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2018

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
11	Wednesday, October 31, 2018	November 21, 2018
12	Wednesday, November 14, 2018	December 5, 2018
13	Friday, November 30, 2018	December 19, 2018

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, November 13, 2018, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Update of references—department organization, statutory citations, addresses, amendments to chs 1, 4 to 9, 41, 42, 48, 55, 56, 58, 59, 61, 62, 64 to 66, 71, 100 to 103, 119	Filed	ARC 4053C	10/10/18
Applicants for executive branch positions—disclosure requirements, 50.1, 54.2, 54.8	Notice	ARC 4045C	10/10/18
Capitol complex operations, 100.3, 100.4(12)	Notice	ARC 4084C	10/24/18
Procurement policies and procedures, amendments to chs 103, 117, 118	Notice	ARC 4050C	10/10/18
Procurement—certification of targeted small businesses, 117.2, 117.5(2)	Filed	ARC 4097C	10/24/18

BANKING DIVISION[187]

COMMERCIAL DEPARTMENT[181]“umbrella”			
Organizational structure of the division, 1.3	Filed	ARC 4054C	10/10/18
Application procedures, amendments to ch 2	Filed	ARC 4055C	10/10/18
Public records and fair information practices, amendments to ch 7	Filed	ARC 4056C	10/10/18
General banking powers, 8.8, 8.9	Filed	ARC 4057C	10/10/18
Real estate lending; leasing, 9.2, 9.3	Filed	ARC 4058C	10/10/18
Contested cases, amendments to ch 11	Filed	ARC 4059C	10/10/18
Waivers and variances—update of citations, amendments to ch 12	Filed	ARC 4060C	10/10/18
Debt management, ch 20	Filed	ARC 4061C	10/10/18

CHIEF INFORMATION OFFICER, OFFICE OF THE[129]

Broadband grants program, ch 22	Filed	ARC 4098C	10/24/18
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COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]“umbrella”			
Changes to address of commission, 1.2(1)	Notice	ARC 4080C	10/24/18
Registered nurse and nurse educator loan forgiveness program, rescind ch 34	Notice	ARC 4081C	10/24/18

CORRECTIONS DEPARTMENT[201]

Institutions administration—pornographic materials ban, 20.2, 20.6	Filed	ARC 4062C	10/10/18
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DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”			
Advertising; designation of specialty, amend ch 26; rescind ch 28	Filed	ARC 4099C	10/24/18

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Renewable chemical production tax credit program—definition of “building block chemical,” 81.2	Notice	ARC 4043C	10/10/18
Iowa energy center, ch 403	Filed	ARC 4063C	10/10/18

EDUCATION DEPARTMENT[281]

Career and technical education, 46.1, 46.6, 46.7, 46.9, 46.10, 46.11(4)	Notice	ARC 4048C	10/10/18
Supplemental career information systems for use in career and academic planning, 49.6(4)	Notice	ARC 4049C	10/10/18

HUMAN SERVICES DEPARTMENT[441]

Mental health and disability services regions, amendments to ch 25	Amended Notice	ARC 4044C	10/10/18
Waiver of right to administrative disqualification hearing for alleged intentional food assistance program violation, 7.8(6)“f,” 7.10(3)“b,” 7.16, 7.21	Filed	ARC 4064C	10/10/18
Provider reimbursement for case management and targeted case management, 79.1(1)“d,” 79.1(2)	Filed	ARC 4065C	10/10/18
Adjustment of home health agency reimbursement rates, 79.1(2)	Filed	ARC 4066C	10/10/18
Medical assistance—inpatient hospital readmission policy, 79.1(5)“g”	Filed	ARC 4067C	10/10/18
Medicaid—pharmacy copayment, 79.1(13)“a”	Filed	ARC 4068C	10/10/18
Special population nursing facility criteria—increase in age limit, inclusion of residents in an intermediate care facility for persons with medical complexity, 81.1, 82.1	Filed	Emergency After Notice ARC 4052C	10/10/18
Medicaid—health and disability waiver, 83.2	Notice	ARC 4089C	10/24/18
Family planning program—participating providers, distribution of funds, amendments to ch 87	Filed	ARC 4069C	10/10/18

INSPECTIONS AND APPEALS DEPARTMENT[481]

Minimum construction standards for hospitals, 51.50 Filed **ARC 4070C**..... 10/10/18

IOWA FINANCE AUTHORITY[265]

Private activity bond allocation, amendments to ch 8 Notice **ARC 4087C**..... 10/24/18

Wastewater and drinking water treatment financial assistance program, amendments to ch 28
Notice **ARC 4090C** 10/24/18

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Bona fide retirement for newly elected officials, 11.5(1) Filed **ARC 4100C** 10/24/18

IOWA PUBLIC INFORMATION BOARD[497]

Advisory opinion requests; petitions for declaratory orders and rule making, 1.2(1), 3.1,
3.3(3), 5.1 Filed **ARC 4101C** 10/24/18

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Federal occupational safety and health standards for exposure to beryllium—adoption by
reference, 10.20 Filed **ARC 4071C** 10/10/18

Hoistway lighting and conduit, 71.1, 72.10, 72.13(7), 73.8(8) Notice **ARC 4088C**..... 10/24/18

MEDICINE BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Application and licensure fees—acupuncturists, genetic counselors, 8.2(2), 8.14 Notice **ARC 4094C**..... 10/24/18

Standards of practice for medical directors at medical spas—delegation and supervision of
medical aesthetic services performed by qualified licensed or certified nonphysician
persons or qualified laser technicians, 13.8 Notice **ARC 4093C** 10/24/18

Standards of practice—medical cannabidiol, 13.15 Notice **ARC 4082C** 10/24/18

Licensure of genetic counselors, ch 20 Notice **ARC 4095C** 10/24/18

NATURAL RESOURCE COMMISSION[571]

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Licenses—fees, 15.1, 15.12 Filed **ARC 4072C** 10/10/18

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Supervision of pharmacist-interns, 4.9 Notice **ARC 4091C** 10/24/18

Universal practice standards—licenses, fees; telepharmacy, 8.35, 13.16 Notice **ARC 4092C**..... 10/24/18

Temporary scheduling of cannabidiol drug products as Schedule V controlled substances,
10.39(4) Notice **ARC 4086C**, also Filed **Emergency ARC 4085C** 10/24/18

Correctional pharmacy practice, 15.4, 15.5(3), 15.7, 15.8(1) Filed **ARC 4073C** 10/10/18

Expanded practice standards—statewide protocols, amendments to ch 39 Notice **ARC 4096C** 10/24/18

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Physical therapists and physical therapy assistants—licensure compact, criminal history
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Podiatrists, orthotists, prosthetists, and pedorthists—continuing education, practice,
discipline, 222.3, 223.5, 224.2(32) Notice **ARC 4051C** 10/10/18

PUBLIC HEALTH DEPARTMENT[641]

Outpatient diabetes education programs, amendments to ch 9 Filed **ARC 4074C** 10/10/18

Maternal and child health program, amendments to ch 76 Filed **ARC 4075C**..... 10/10/18

Center for rural health and primary care, amendments to ch 110 Filed **ARC 4076C** 10/10/18

Iowa law enforcement emergency care provider, rescind ch 139 Filed **ARC 4077C** 10/10/18

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Water service excise tax, ch 97 Amended Notice **ARC 4083C**..... 10/24/18

SECRETARY OF STATE[721]Elections technology security, ch 29 Filed **ARC 4103C**..... 10/24/18**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

Rate cases, tariffs, and rate regulation election practice and procedure, amendments to ch 26

Notice **ARC 4046C** 10/10/18

Evaluation of management efficiency of rate-regulated utilities, amendments to ch 29

Filed **ARC 4104C**..... 10/24/18**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]**Veterans trust fund, 14.4 Filed **ARC 4105C** 10/24/18**WORKFORCE DEVELOPMENT DEPARTMENT[871]**Overpayment of benefits—repayment, 25.7(6), 25.8(1) Notice **ARC 4047C**..... 10/10/18**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

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

Senator Jim Carlin
43 Arlington Road
Sioux City, Iowa 51106

Senator Mark Chelgren
819 Hutchinson
Ottumwa, Iowa 52501

Senator Mark Costello
37265 Rains Avenue
Imogene, Iowa 51645

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

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

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Representative Megan Jones
4470 Highway 71
Sioux Rapids, Iowa 50585

Representative Amy Nielsen
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North Liberty, Iowa 52317

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Des Moines, Iowa 50317

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Mount Auburn, Iowa 52313

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Applicants for executive branch positions—disclosure requirements, 50.1, 54.2, 54.8 IAB 10/10/18 ARC 4045C	Procurement Conference Room, A Level Hoover State Office Bldg. Des Moines, Iowa	October 30, 2018 1 to 2 p.m.
Capitol complex operations, 100.3, 100.4(12) IAB 10/24/18 ARC 4084C	Procurement Conference Room, A Level Hoover State Office Bldg. Des Moines, Iowa	November 14, 2018 10 to 11 a.m.
Procurement policies and procedures, amendments to chs 103, 117, 118 IAB 10/10/18 ARC 4050C	Procurement Conference Room, A Level Hoover State Office Bldg. Des Moines, Iowa	October 31, 2018 10 to 11 a.m.

EDUCATION DEPARTMENT[281]

Career and technical education, 46.1, 46.6, 46.7, 46.9, 46.10, 46.11(4) IAB 10/10/18 ARC 4048C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	October 30, 2018 10 to 11 a.m.
Supplemental career information systems for use in career and academic planning, 49.6(4) IAB 10/10/18 ARC 4049C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	October 30, 2018 9 to 10 a.m.

HUMAN SERVICES DEPARTMENT[441]

Mental health and disability services regions, amendments to ch 25 IAB 10/10/18 ARC 4044C	Polk County River Place Rooms 1 and 1A 2309 Euclid Ave. Des Moines, Iowa	November 14, 2018 2:30 to 4:30 p.m.
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INSURANCE DIVISION[191]

Fully insured multiple employer welfare arrangements; fully insured and self-insured association health plans, 77.4 to 77.6 IAB 9/26/18 ARC 4041C	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	October 30, 2018 11 a.m. to 12 noon
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IOWA FINANCE AUTHORITY[265]

Wastewater and drinking water treatment financial assistance program, amendments to ch 28 IAB 10/24/18 ARC 4090C	Authority Offices 2015 Grand Ave. Des Moines, Iowa	November 14, 2018 9 a.m.
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LABOR SERVICES DIVISION[875]

Hoistway lighting and conduit, 71.1, 72.10, 72.13(7), 73.8(8) IAB 10/24/18 ARC 4088C	150 Des Moines St. Des Moines, Iowa	November 14, 2018 11 a.m. (If requested)
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MANAGEMENT DEPARTMENT[541]

Suspension and reinstatement of state funds, ch 13 IAB 9/26/18 ARC 4008C	State Capitol, Room 116 1007 E. Grand Ave. Des Moines, Iowa	October 24, 2018 9 to 11 a.m.
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MEDICINE BOARD[653]

Application and licensure fees—acupuncturists, genetic counselors, 8.2(2), 8.14 IAB 10/24/18 ARC 4094C	Board Office, Suite C 400 S.W. 8th St. Des Moines, Iowa	November 20, 2018 11:30 a.m. to 12 noon
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Standards of practice for medical directors at medical spas—delegation and supervision of medical aesthetic services performed by qualified licensed or certified nonphysician persons or qualified laser technicians, 13.8 IAB 10/24/18 ARC 4093C	Board Office, Suite C 400 S.W. 8th St. Des Moines, Iowa	November 20, 2018 10 a.m.
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Standards of practice—medical cannabidiol, 13.15 IAB 10/24/18 ARC 4082C	Board Office, Suite C 400 S.W. 8th St. Des Moines, Iowa	November 20, 2018 9 a.m.
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Licensure of genetic counselors, ch 20 IAB 10/24/18 ARC 4095C	Board Office, Suite C 400 S.W. 8th St. Des Moines, Iowa	November 20, 2018 11 a.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Podiatrists, orthotists, prosthetists, and pedorthists—continuing education, practice, discipline, 222.3, 223.5, 224.2(32) IAB 10/10/18 ARC 4051C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	October 30, 2018 8 to 9 a.m.
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REVENUE DEPARTMENT[701]

Water service excise tax, ch 97 IAB 10/24/18 ARC 4083C	Room 430, Fourth Floor Hoover State Office Bldg. Des Moines, Iowa	November 13, 2018 1 to 2 p.m. (If requested)
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UTILITIES DIVISION[199]

Rate cases, tariffs, and rate regulation election practice and procedure, amendments to ch 26 IAB 10/10/18 ARC 4046C	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	December 18, 2018 10:30 a.m. to 12:30 p.m.
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The following list will be updated as changes occur.

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

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

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

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FEMA DR-4392-IA

AGENCY	PROGRAM	ELIGIBLE APPLICANTS	TYPES OF PROJECTS
<p>Iowa Homeland Security and Emergency Management Department (HSEMD)</p>	<p>Hazard Mitigation Grant Program (HMGP) Authorized by §203 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act), 42 U.S.C. 5133, as amended by §102 of the Disaster Mitigation Act of 2000 (DMA).</p>	<ul style="list-style-type: none"> ● State Agencies and Local Governments. ● Federally recognized Indian Tribal governments, to include state recognized Indian Tribes, and Authorized Tribal Organizations. ● Private Non Profit (PNP) Organizations or institutions which operate a PNP facility as defined in the 44 Code of Federal Regulations (CFR), Section 206.221(e). ● All applicants must be participating in the NFIP if they have been identified as having a Special Flood Hazard Area. The Community must not be on probation, suspended or withdrawn from the NFIP. ● All applicants for a project grant MUST have a FEMA-approved local hazard mitigation plan. <p>Application Process: -Potential project & planning applicants must complete a Notice of Interest (NOI) Form located on the HSEMD website at: www.iowahomelandsecurity.org/grants/HMA.html -NOI's will be selected for full application development based on funding availability, the State's priority, and an initial eligibility review. -NOI's will be accepted on a continuous basis or until otherwise notified.</p> <p>For additional information, please contact:</p> <p style="text-align: center;">Dan Schmitz 515-725-9369 Aimee Bartlett 515-725-9364</p> <p style="text-align: center;">Iowa Homeland Security and Emergency Management Department 7900 Hickman Road Windsor Heights, IA 50324</p>	<p>Eligible Project Types</p> <p>Projects may be of any nature that will result in protection to public or private property, including but not limited to:</p> <ul style="list-style-type: none"> ● Acquisition or relocation of hazard-prone property for conversion to open space in perpetuity ● Construction of safe rooms (tornado and severe wind shelters) ● Structural and non-structural retrofitting of existing buildings and facilities (including designs and feasibility studies when included as part of the construction project) for wildfire, seismic, wind or flood hazards (e.g., elevation, flood-proofing, storm shutters, hurricane clips) ● Minor structural hazard control or protection projects that may include vegetation management, storm water management (e.g., culverts, floodgates, retention basins), or shoreline/landslide stabilization ● Localized flood control projects, such as certain ring levees and floodwall systems, that are designed specifically to protect critical facilities and do not constitute a section of a larger flood control system ● Development of multi-jurisdictional hazard mitigation plans and plan updates <p>Planning Application</p> <p>The outcome of a mitigation planning grant award must be a FEMA-approved hazard mitigation plan that complies with the requirements of 44 CFR Part 201. The planning grant deliverable can be a new hazard mitigation plan or an update of an already FEMA-approved hazard mitigation plan.</p>

ARC 4084C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Notice of Intended Action

Proposing rule making related to capitol complex operations and providing an opportunity for public comment

The Department of Administrative Services hereby proposes to amend Chapter 100, "Capitol Complex Operations," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 8A.104, 8A.322, 17A.3 and 17A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 8A.322 and 17A.7.

Purpose and Summary

The following proposed amendments update references and procedures in Chapter 100 of the Department's rules regarding capitol complex operations, including updating the tobacco use policy as well as hours of operation at the Capitol Building. These amendments are being proposed as part of the Department's five-year review of rules.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written 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 November 14, 2018. Comments should be directed to:

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

Public Hearing

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

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

November 14, 2018
10 to 11 a.m.

Procurement Conference Room, A Level
Hoover State Office Building
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 11—100.3(142B) as follows:

11—100.3(142B 142D) Smoking.

100.3(1) and 100.3(2) No change.

100.3(3) This rule shall be enforced by peace officers of the department of public safety. Peace officers other than those employed by the department of public safety may enforce this rule at the request of the commissioner of public safety or at the request of a peace officer employed by the department of public safety. This rule includes, but is not limited to, burning or vaporizing tobacco or other products in a cigarette, cigar, pipe, electronic cigarette, or any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. Tobacco includes any type of tobacco product including, but not limited to, cigarettes, cigars, cigarillos, electronic cigarettes, pipes, bidis, hookahs, smokeless chewing tobacco, and/or snuff.

This rule is intended to implement Iowa Code section 8A.322 and chapter ~~42B~~ 142D and Executive Order Number 68 signed November 23, 1998, by Governor Terry Branstad.

ITEM 2. Amend paragraphs **100.4(12)“b”** and **“c”** as follows:

b. For the Capitol Building, normal office hours are ~~6 a.m. to 6 p.m.~~ 7 a.m. to 5 p.m., Monday through Friday, ~~except that if a legislative session lasts past 6 p.m., the closing hour is extended until one-half hour beyond the session's end. Weekend hours of public access shall be posted at public entrances~~ and 9 a.m. to 4 p.m. on Saturday. If the legislature is in session after normal office hours, the ground floor south door closing hour is extended until the session's end. Inquiries regarding the hours the building is open may be directed to the information desk at (515)281-5591.

c. For the Iowa Historical Building, normal office hours are 8 a.m. to 4:30 p.m. every day, excluding weekends and holidays. The Iowa Historical Museum and the State Historical Library, located within the Iowa Historical Building, have different hours. Hours of public access shall be posted at public entrances. Inquiries regarding the hours the building is open may be directed to the information desk at ~~(515)281-5111~~.

ARC 4080C

COLLEGE STUDENT AID COMMISSION[283]

Notice of Intended Action

**Proposing rule making related to change of address
and providing an opportunity for public comment**

The College Student Aid Commission hereby proposes to amend Chapter 1, "Organization and Operation," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

The proposed amendment reflects the new address of the Commission.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on November 13, 2018. Comments should be directed to:

Karen Misjak
Executive Director
Iowa College Student Aid Commission
475 S.W. Fifth Street, Suite D
Des Moines, Iowa 50309-4608
Phone: 515.725.3410
Fax: 515.725.3401
Email: karen.misjak@iowa.gov
or via the Iowa administrative rules website: rules.iowa.gov

Public Hearing

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend subrule 1.2(1) as follows:

1.2(1) Location. The commission is located at ~~430 East Grand Avenue, Third Floor~~ 475 S.W. Fifth Street, Suite D, Des Moines, Iowa 50309-1920 4608; telephone (515)725-3400; Internet site www.iowacollegeaid.gov. Office hours are 8 a.m. to 4:30 p.m., Monday to Friday. Offices are closed on Saturdays and Sundays and on official state holidays designated in accordance with state law.

ARC 4081C

COLLEGE STUDENT AID COMMISSION[283]

Notice of Intended Action

Proposing rule making related to loan forgiveness program and providing an opportunity for public comment

The College Student Aid Commission hereby proposes to rescind Chapter 34, "Registered Nurse and Nurse Educator Loan Forgiveness Program," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

The proposed amendment reflects changes to Iowa Code section 261.116 that were enacted in 2018 Iowa Acts, Senate File 2415, section 20. Section 20 replaces the Registered Nurse and Nurse Educator Loan Forgiveness Program with the Health Care Loan Repayment Program. Administrative rules have been promulgated for new Chapter 26, "Health Care Loan Repayment Program." This rule making rescinds existing Chapter 34.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on November 13, 2018. Comments should be directed to:

Karen Misjak
Executive Director
Iowa College Student Aid Commission
475 S.W. Fifth Street, Suite D
Des Moines, Iowa 50309-4608
Phone: 515.725.3410
Fax: 515.725.3401
Email: karen.misjak@iowa.gov
or via the Iowa administrative rules website: rules.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Rescind and reserve **283—Chapter 34.**

ARC 4089C

HUMAN SERVICES DEPARTMENT[441]**Notice of Intended Action****Proposing rule making related to health and disability waiver and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4 and 42 U.S.C. Section 1396n(d).

HUMAN SERVICES DEPARTMENT[441](cont'd)

Purpose and Summary

These proposed amendments change the eligibility criteria for health and disability waiver participation. This change to the criteria will broaden the population that will be eligible for the waiver. While the change will not increase the number of members served at one time, the change will allow for an expanded population.

These amendments also revise the language regarding increasing the waiver budgets by putting in place specific guidelines for the process and cost limitations. Providers, members, case managers, and managed care organizations will have greater clarity regarding how the waiver service is to be administered because the amendments further define the benefits associated with the waiver.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 13, 2018. Comments should be directed to:

Harry Rossander
Department of Human Services
Bureau of Policy Coordination
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: policyanalysis@dhs.state.ia.us

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 1. Rescind and reserve paragraph **83.2(1)“b.”**

ITEM 2. Amend paragraph **83.2(2)“b”** as follows:

b. Except as provided below, the total monthly cost of the health and disability waiver services, excluding the cost of home and vehicle modification services, shall not exceed the established aggregate monthly cost for level of care as follows:

Skilled level of care	Nursing level of care	ICF/ID
\$2,792.65	\$959.50	\$3,742.93

~~For members eligible for SSI who remain eligible for health and disability waiver services until the age of 25 because they are receiving health and disability waiver services upon reaching the age of 21, these amounts shall be increased by the cost of services for which the member would be eligible under 441—subrule 78.9(10) if still under 21 years of age.~~

For members enrolled in the health and disability waiver in accordance with subrule 83.2(1), when a member turns 21 years of age, the average monthly cost of services received through 441—subrule 78.9(10) (state plan private duty nursing or personal care services for persons aged 20 and under) shall be used to increase the monthly waiver budget in accordance with the following:

(1) The member must request the revised waiver budget through the member’s case manager no earlier than two months before, and no later than six months after, the member’s twenty-first birthday. A renewal request must be received annually no earlier than two months before, and no later than six months after, each subsequent birthday.

(2) The member’s waiver budget shall be increased by the average monthly cost of state plan private duty nursing or personal care services for the member that was billed to and paid by Iowa Medicaid or an Iowa Medicaid-contracted managed care organization during the year in which the member is 20 years of age.

(3) Once the request is received by the department, the department shall determine the average monthly cost pursuant to the claims data available at the time of the request. No subsequent claims data shall be considered.

(4) The revised waiver budget reflecting the average cost of state plan private duty nursing or personal care services shall become effective on the later of the first day of the month of the member’s twenty-first birthday or the first day of the month of the completed review.

(5) The revised waiver budget shall extend up to the first of the month following the member’s twenty-fifth birthday and shall remain at the initially authorized amount for the member while aged 21 through 24.

ARC 4087C

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

Proposing rule making related to allocation of private activity bonds and providing an opportunity for public comment

The Iowa Finance Authority hereby proposes to amend Chapter 8, “Private Activity Bond Allocation,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 7C.

IOWA FINANCE AUTHORITY[265](cont'd)

Purpose and Summary

The purpose of the proposed amendments is to update and clarify the rules surrounding the allocation of private activity bonds, as defined in Section 141 of the Internal Revenue Code. The rules in Chapter 8 have not been revised for many years.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on November 13, 2018. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 265—8.1(7C) as follows:

265—8.1(7C) General. The governor has appointed the executive director of the Iowa finance authority as the governor’s designee responsible for administration of the law which establishes procedures for allocation of private activity bonds as defined in Section 141 of the Internal Revenue Code. Procedures set out in the law and in these rules shall be followed in allocating the private activity bond state ceiling (“state ceiling”) between cities, counties and the state of Iowa. ~~For each calendar year, the state ceiling shall be allocated among bonds issued for various purposes in the percentages set forth in Iowa Code~~

IOWA FINANCE AUTHORITY[265](cont'd)

~~section 7C.4A. The state ceiling shall be allocated among all issuers for those various purposes annually in accordance with Iowa Code chapter 7C and these rules. All applications received in any calendar year shall expire as of December 31 of that year.~~

ITEM 2. Amend rule 265—8.2(7C) as follows:

265—8.2(7C) Forms and applications. Information and forms necessary for compliance with provisions of the law are available upon request from the Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312; or on the website at iowafinanceauthority.gov. The telephone number of the authority is (515)725-4900. The facsimile number of the authority is (515)725-4901.

8.2(1) An issuer or beneficiary, or the duly authorized agent of an issuer or beneficiary, must make an application by filing the form, available from the governor's designee, entitled "Private Activity Volume Cap Application" for the allocation of a portion of the private activity bond state ceiling allocated pursuant to Iowa Code chapter 7C. Applications may be submitted electronically or via email or facsimile. An application for current year allocation or carryforward allocation may be submitted at any time.

8.2(2) An application for allocation may be made only after the governing body of an issuer has adopted a resolution evidencing an intent to issue the bonds.

8.2(3) An application must be accompanied by the application fee set forth in rule 265—8.10(7C), and all required attachments to the application must be submitted before such application is considered for allocation under rule 265—8.5(7C).

8.2(4) An application for allocation for industries under Iowa Code section 7C.4A(5) is limited to \$10 million per project per calendar year.

8.2(5) The state ceiling allocated under Iowa Code sections 7C.4A(4), 7C.4A(5), 7C.4A(6) and 7C.4A(7) shall be allocated among all issuers as provided in rules 265—8.3(7C) and 265—8.4(7C).

This rule is intended to implement Iowa Code sections 7C.4, 7C.5 and 7C.6.

ITEM 3. Amend rule 265—8.3(7C) as follows:

265—8.3(7C) Formula for Applications for current allocation received prior to the calendar year for such allocation.

~~8.3(1) The state ceiling shall be allocated among all issuers on the basis of chronological order of receipt of applications. Chronological order of receipt shall be determined by the date, hour and minute indicated by the time stamp as affixed to the application at the offices of the governor's designee. Applications for any given calendar year may be submitted to the Iowa finance authority offices during the month of December of the preceding year with a request that the application be treated as received when the Iowa finance authority opens for business on the first business day of the calendar year for which the application is made. Applications submitted in this manner must be clearly marked on the first page of such application with words such as: "This application for private activity bond allocation for year 2018 is to be held for constructive delivery and receipt by the Iowa finance authority upon the opening of business on the first business day of calendar year 2018." There may be only one application for each separate project. All applications so received with the application fee and any required documentation attached will be deemed received simultaneously by the Iowa finance authority on the first business day of the calendar year for which application is made. Expired applications made in previous years may be resubmitted to the authority pursuant to this procedure.~~

~~8.3(2) All applications that are submitted for receipt pursuant to the provisions of subrule 8.4(2) shall be considered simultaneously received at the opening of business on the first business day of the calendar year, and the same date, hour and minute shall be stamped on each application so received.~~

~~a. If the total amount of allocations requested in all of the complete applications received pursuant to subrule 8.4(2) 8.3(1) that seek (a) allocations of bonds for first-time farmers pursuant to Iowa Code section 7C.4A(4), (b) allocations for industries pursuant to Iowa Code subsection section 7C.4A(5) exceed the amount of the state ceiling available for that purpose, the applications will be considered for allocation in the order determined pursuant to the procedures set forth in paragraph 8.3(3) "a."~~

IOWA FINANCE AUTHORITY[265](cont'd)

~~b. If the total amount of allocations requested in all of the applications received pursuant to subrule 8.4(2) that seek, or (c) allocations of private activity bonds issued by public political subdivisions, the proceeds of which are used by the issuing subdivision pursuant to Iowa Code section 7C.4A(6); exceed the amount of the state ceiling available for that the respective purpose, the applications for each applicable purpose will be considered for allocation in the order determined pursuant to the procedures set forth in paragraph 8.3(3)“b.” subrule 8.3(3).~~

8.3(3) Allocation process.

~~a. In order to determine the order of allocation of the state ceiling to each of the applications for first-time farmer purposes, industrial purposes or for political subdivisions that are simultaneously received pursuant to subrules 8.4(2) and 8.4(4) subrule 8.3(1), each application for the applicable purpose shall be assigned a preference number determined by a random drawing for allocation for such purpose conducted at approximately 10 a.m. on the first day of business of the calendar year at the Iowa finance authority offices. Any person desiring to attend and witness the drawing and assigning of preference numbers may do so. Each application for a specified purpose shall be assigned an identification code that shall be written on the outside first page of the sealed envelope containing the application. The identification codes for applications for a specified purpose shall be written on strips of paper and placed in individual envelopes and sealed. The sealed envelopes containing identification codes for each application for the specified purpose shall be placed in a container separate containers, mixed, and drawn from the applicable container at random by a member of the authority’s staff. The application corresponding with the identification code that is drawn first shall be placed first on the list of applicants to receive an allocation of the state ceiling for such purpose. The application corresponding with the identification code that is selected second shall be placed second on the applicable list, and so forth. Drawings shall continue until all applications for each specified purpose are assigned a place on the list of applications for such purpose received.~~

~~b. In order to determine the order of allocation of the state ceiling to each of the applications for state ceiling for political subdivisions that are simultaneously received pursuant to subrules 8.4(2) and 8.4(4), each application shall be assigned a preference number determined by a random drawing conducted at 10 a.m. on the first day of business of the calendar year at the Iowa finance authority offices. Any person desiring to attend and witness the drawing and assigning of preference numbers may do so. Applications shall be assigned an identification code that shall be written on the outside of the sealed envelope containing the application. The identification codes shall be written on strips of paper and placed in individual envelopes and sealed. The sealed envelopes containing identification codes shall be placed in a container, mixed, and drawn from the container at random by a member of the authority’s staff. The application corresponding with the identification code that is drawn first shall be placed first on the list of applicants to receive an allocation of the state ceiling. The application corresponding with the identification code that is selected second shall be placed second on the list, and so forth. Drawings shall continue until all applications are assigned a place on the list of applications received.~~

~~8.3(4) The governor’s designee shall maintain one list of applications for private activity bonds for the purpose of industries and a separate list for applications for private activity bonds for the use of political subdivisions. The applications that are simultaneously received pursuant to subrules 8.4(2) and 8.4(4) shall be listed in the order of preferences established pursuant to paragraphs 8.3(3)“a” and 8.3(3)“b.” Applications received after the opening of the first day of business of a calendar year shall be added to the appropriate list depending upon the subject of the application in the chronological order received.~~

~~8.3(5) Formula for allocations following June 30 of each year. As permitted by Iowa Code section 7C.5, following June 30 of each year issuers which initially applied for state ceiling allocated under Iowa Code section 7C.4A(6) for bonds, the proceeds of which are to be used by the issuing political subdivision, shall be given priority over any applications received for state ceiling for bonds otherwise requiring an allocation under Section 146 of the Internal Revenue Code.~~

This rule is intended to implement Iowa Code sections 7C.4A(7)“a” and 7C.5.

IOWA FINANCE AUTHORITY[265](cont'd)

ITEM 4. Amend rule 265—8.4(7C) as follows:

265—8.4(7C) Application for current allocation received during the calendar year.

~~8.4(1) An issuer or beneficiary, or the duly authorized agent of an issuer or beneficiary, must make an application by filing the form available from the governor's designee entitled, "Application and Response," for the allocation of a portion of the private activity bond state ceiling. Applications for current allocation for any given calendar year may be submitted to the Iowa finance authority offices at any time during the calendar year.~~

~~8.4(2) Applications for any given calendar year may be submitted to the Iowa finance authority offices during the month of December of the previous year with a request that the application be treated as received when the authority opens for business on the first business day of the calendar year for which the application is made. Applications submitted in this manner must be contained in a sealed envelope that is clearly marked with words such as: "This application for private activity bond allocation for year 2001 is to be held for constructive delivery and receipt, and stamped 'received' by the Iowa Finance Authority upon the opening of business on the first business day of calendar year 2001." Applicants should also indicate on the outside of the sealed envelope the type of bond for which application is made and the amount requested. There may be only one application for each separate project. All applications so received will be deemed received simultaneously as of the date, hour and minute of the opening of business of the Iowa finance authority on the first business day of the calendar year for which application is made. Expired applications made in previous years may be resubmitted to the authority pursuant to this procedure. Complete applications received during the calendar year will be allocated for each applicable purpose (other than applications for which the Iowa finance authority determines, in its sole discretion, to make an allocation under Iowa Code section 7C.4A(1) "a"(4) pursuant to subrule 8.5(3) and subject to subrule 8.5(2)) in the order such application is received.~~

~~8.4(3) Applications for any given calendar year may be submitted to the Iowa finance authority offices at any time during the calendar year. Applications must be contained in a sealed envelope that is clearly marked with the year for which the application is made, the type of bond sought, and the amount of the state ceiling requested. Applications received during the calendar year will be immediately stamped with the day, hour and minute they are received by the authority.~~

~~8.4(4) All applications received pursuant to the provisions of subrule 8.4(2) will be deemed to have been received simultaneously on the date, hour and minute that the authority opens for business on the first business day of the year for which the applications are made.~~

This rule is intended to implement Iowa Code sections 7C.4A and 7C.5.

ITEM 5. Amend rule 265—8.5(7C) as follows:

265—8.5(7C) Certification of current allocation. This rule implements 2000 Iowa Acts, chapter 1166, section 8, providing that "for the calendar year beginning January 1, 2001, applications for the state ceiling allocation under [Iowa Code] section 7C.4A, subsection 5, shall not be approved prior to March 1." For the calendar year beginning January 1, 2001, unless Iowa Code chapter 7C has been otherwise amended, upon receipt of a completed application, the

8.5(1) The governor's designee shall maintain separate lists of applications for private activity bonds for the purpose of industries, for private activity bonds for the use of political subdivisions, and for allocation pursuant to Iowa Code section 7C.4A(7). If there are additional applications after the state ceiling for the purpose of industries is fully allocated and, before June 30, the state ceiling for the use of political subdivisions is fully allocated to applications, all applications that have not been allocated any state ceiling will be placed on the list for allocation pursuant to Iowa Code section 7C.4A(7) in the chronological order of receipt without regard to the purpose for which such applications were made.

8.5(2) The governor's designee shall promptly, commencing March 1, 2001, certify to the issuer the amount of the state ceiling allocated to the bonds for the purpose of the project for which the application was submitted, in the order as determined by Iowa Code chapter 7C and rules 265—8.3(7C) and 265—8.4(7C). The governor's designee shall continue to allocate the state ceiling for each purpose separately (or, if the allocation is made under Iowa Code section 7C.4A(7), in the chronological order

IOWA FINANCE AUTHORITY[265](cont'd)

of applications received) until all the available state ceiling for that purpose is fully allocated. A project receiving an allocation made under Iowa Code section 7C.4A(7) is limited to \$50 million in any calendar year. If there is not sufficient available state ceiling to fully fund an application which is next in order for allocation, the governor's designee shall notify the applicant of the amount that is available and the applicant shall have the option to take what is available within five calendar days of receiving notice of availability. If the applicant does not notify the governor's designee of its decision to take the available allocation within five calendar days of receiving notice of that option, the available state ceiling shall be offered to the next application on the list under the same conditions, and the initial offeree will maintain its position on the list. If the partial allocation is accepted, the applicant ~~shall~~ may submit a new application for additional state ceiling and that application will be added to the bottom of the applicable list in the chronological order of its receipt.

8.5(3) If the bonds are issued and delivered prior to the expiration date of the allocation, then the issuer or the issuer's attorney shall within ten days following the issuance and delivery of the bonds notify the governor's designee by filing the form captioned ~~“Notice~~ “Private Activity Volume Cap Notice of Issuance and Delivery of Bonds.” ~~Upon receipt of the form the governor's designee shall return a time-stamped copy of the form to the issuer or issuer's attorney.~~

8.5(4) Upon receipt of a complete application for allocation for a qualified residential rental project, the bonds for which will be issued by the Iowa finance authority, the Iowa finance authority may determine in its sole discretion to allocate a portion of its allocation under Iowa Code section 7C.4A(1)“a”(4) to such application. If the Iowa finance authority determines in its sole discretion to make such a certification of allocation, the Iowa finance authority has the sole discretion to determine the amount and order of such certification of each such allocation.

This rule is intended to implement Iowa Code sections 7C.4A and 7C.5.

ITEM 6. Amend rule 265—8.6(7C) as follows:

265—8.6(7C) State ceiling carryforwards. In the event the aggregate principal amount of bonds issued by all issuers in a calendar year is less than the state ceiling for that calendar year, then an issuer or beneficiary may apply to the governor's designee for an allocation of a specified portion of the excess state ceiling to be applied to a specified carryforward project. The application must be in writing and shall comply with the carryforward provisions of Section ~~103(n)~~ 146(f) of the Internal Revenue Code and regulations promulgated under that section. ~~All applications for carryforward of state ceiling must be filed with the governor's designee by December 31 of the calendar year for which the allocation is to be carried forward from~~ Any carryforward allocation that has not expired under Section 146 of the Internal Revenue Code released by the original applicant may be allocated to any other applicant for allocation for the same purpose for which the original application was made.

ITEM 7. Amend rule 265—8.7(7C) as follows:

265—8.7(7C) Expiration dates of applications and allocations.

8.7(1) All applications for current allocation received in any calendar year shall expire 120 days after the date of certification of allocation; provided that, before the expiration of the 120-day period, the issuer or beneficiary may make a request in writing to the governor's designee for an extension of not more than 30 days after the expiration of the 120-day period. Such request for extension shall be accompanied by an agreement among the issuer, the proposed purchaser of the bonds, and the beneficiary showing an intent of the proposed purchaser to purchase the bonds.

8.7(2) If the expiration date of either the ~~90-day~~ 120-day period or any 30-day extension period is a Saturday, Sunday or any day on which the offices of the state banking institutions or savings and loan associations in the state are authorized or required to close, the expiration date is extended to the first day thereafter which is not a Saturday, Sunday or previously described day.

8.7(3) All applications for current allocation received in any calendar year which do not otherwise expire under subrules 8.7(1) and 8.7(2) shall expire as of December 24 of that year except for applications

IOWA FINANCE AUTHORITY[265](cont'd)

for current year allocation for bonds described in Iowa Code section 7C.11, which expire on December 31 of that year.

ITEM 8. Amend rule 265—8.9(7C) as follows:

265—8.9(7C) Use by political subdivisions. With respect to the amount of the state ceiling allocated for the purpose of private activity bonds issued by political subdivisions, the proceeds of which are used by the issuing political subdivisions under Iowa Code section 7C.4A(6), the political subdivision must use the proceeds to finance a project owned or utilized directly by the political subdivision, or finance a program of the political subdivision which the legislature by statute has authorized or directed the political subdivision to implement.

This rule is intended to implement Iowa Code section 7C.4A(6).

ITEM 9. Amend rule 265—8.10(7C) as follows:

265—8.10(7C) Application and allocation fees. The Iowa finance authority may charge reasonable fees for providing administrative assistance with regard to the filing of applications and the allocation of the private activity bond state ceiling in accordance with these rules. A fee of ~~1 2~~ basis point ~~(.01%)~~ points ~~(.02%)~~ of the amount of state ceiling for which application is made shall be paid by the applicant upon filing the application with the governor's designee. ~~An additional fee of 1 basis point shall be paid by the applicant upon receipt of the certification by the governor's designee of the state ceiling allocated.~~

ITEM 10. Rescind and reserve rule **265—8.11(7C)**.

ARC 4090C

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

Proposing rule making related to wastewater and drinking water treatment financial assistance program and providing an opportunity for public comment

The Iowa Finance Authority hereby proposes to amend Chapter 28, "Wastewater Treatment Financial Assistance Program," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, 2018 Iowa Acts, Senate File 512.

Purpose and Summary

The proposed amendments are intended to implement changes required by 2018 Iowa Acts, Senate File 512, including the addition of drinking water treatment facilities to the program.

Fiscal Impact

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

Jobs Impact

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

IOWA FINANCE AUTHORITY[265](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 Authority for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on November 13, 2018. Comments should be directed to:

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

Public Hearing

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

November 14, 2018
9 a.m.

Authority Offices
2015 Grand Avenue
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend **265—Chapter 28**, title, as follows:
WASTEWATER AND DRINKING WATER TREATMENT FINANCIAL ASSISTANCE PROGRAM

ITEM 2. Amend rule 265—28.1(81GA, HF2782) as follows:

265—28.1(81GA, HF2782 16) Overview.

28.1(1) ~~Statutory authority~~ *Sources of funds.* ~~The authority to provide financial assistance to communities that must install or upgrade wastewater treatment facilities and systems is provided by 2006 Iowa Acts, House File 2782, section 63.~~ The wastewater and drinking water treatment financial assistance fund shall consist of appropriations made to the fund and transfers of interest, earnings, and moneys from other funds as provided by law.

28.1(2) *Purpose.* The purpose of the program is to provide grants financial assistance to enhance water quality and to assist communities to comply with water quality standards adopted by the ~~department of natural resources~~. Financial assistance under the program shall be used for eligible costs

IOWA FINANCE AUTHORITY[265](cont'd)

to install or upgrade wastewater treatment facilities and systems, and drinking water treatment facilities and systems, including source water protection projects, and for engineering or technical assistance for facility planning and design.

ITEM 3. Amend rule 265—28.2(81GA, HF2782) as follows:

265—28.2(81GA, HF2782 16) Definitions.

“Authority” or “IFA” means the Iowa finance authority as established by Iowa Code chapter 16.

“Committee” means the water quality financing review committee consisting of the secretary of agriculture or the secretary’s designee, the executive director of the authority or the executive director’s designee, and the director of the department of natural resources or the director’s designee.

“Community” means a city, county, sanitary district, rural water district, or other governmental body empowered to provide sewage collection and treatment services or drinking water distribution and treatment in connection with a project. “Community” includes a utility management organization formed under Iowa Code chapter 28E or operated by a rural water system organized under Iowa Code chapter 357A or 504.

“Costs” means all expenses incurred by the recipient and determined by the authority as reasonable and necessary to carry out a project.

“Department” or “DNR” means the Iowa department of natural resources.

“Director” means the director of the authority.

“Disadvantaged community” means the same as defined in Iowa Code section 455B.199B.

“Program” means the wastewater and drinking water treatment financial assistance program created in 2006 Iowa Acts, House File 2782, section 63 2018 Iowa Acts, Senate File 512, section 4.

“Project” means the acquisition, construction, reconstruction, extension, equipping, improvement or rehabilitation of any works and facilities useful for the collection, treatment, and disposal of sewage and industrial waste in a sanitary manner and for drinking water infrastructure improvements, source water protection, and other activities intended to facilitate public water supply system compliance and public health protection.

“Recipient” means the entity receiving funds from the program.

“SRF” means the state revolving fund, which is the Iowa water pollution control works and drinking water facilities financing program administered by IFA and DNR.

ITEM 4. Amend rule 265—28.3(81GA, HF2782) as follows:

265—28.3(81GA, HF2782 16) Project funding.

~~28.3(1) Recipient eligibility Approval of projects. Communities eligible to apply for assistance shall meet the following criteria: The committee will approve or deny applications for financial assistance. The committee will approve financial assistance from the fund in accordance with the priorities listed in subrule 28.3(2). The committee will determine the weighting of priorities on an annual basis.~~

~~a.—The project will serve a community that qualifies as a disadvantaged community as defined by DNR for the drinking water facilities revolving loan fund established in Iowa Code section 455B.295;~~

~~b.—The community is required to install or upgrade wastewater treatment facilities or systems due to regulatory activity in response to water quality standards adopted by DNR in calendar year 2006; and~~

~~c.—The population of the community served by the project is less than 3,000.~~

~~28.3(2) Project eligibility and priority. Financial assistance is available for the upgrade or installation of wastewater treatment facilities and systems attributable to compliance with changes to the water quality standards adopted by DNR in calendar year 2006. Financial assistance shall be available under the program only for projects for which DNR determines that completion of the project, or a part of the project, is necessary for the community to meet water quality standards. Priority shall be given to projects in which the program financial assistance is used in connection with financing under the SRF, or is used in connection with other federal or state financing. Priority shall also be given to projects that will provide the most significant improvement to water quality; this criterion will be determined by the~~

IOWA FINANCE AUTHORITY[265](cont'd)

~~score given to a project by the department pursuant to the project priority rating system used for the water pollution control state revolving fund and set forth in 567—Chapter 91. Priority will be given:~~

~~a. To projects in which a disadvantaged community is seeking financial assistance for the installation or upgrade of wastewater treatment facilities and drinking water treatment facilities.~~

~~b. To projects whose completion will provide significant improvement to water quality in the watershed.~~

~~c. To communities that employ an alternative wastewater treatment technology pursuant to Iowa Code section 455B.199C.~~

~~d. To communities where sewer or water rates are the highest as a percentage of that community's median household income.~~

~~e. To communities that employ technology to address the goals of the Iowa nutrient reduction strategy.~~

~~f. To communities whose drinking water facilities and systems use as a supply, or to projects whose completion will improve, surface waters on the state's impaired waters list.~~

~~**28.3(3) Applications Awards.** Applications will be accepted quarterly on forms developed by IFA and available at www.iowafinanceauthority.gov. Grants will be awarded quarterly. IFA will coordinate with other applicable state or federal financing programs when possible. Financial assistance in the form of grants will be issued on an annual basis. No recipient will receive a grant in excess of \$500,000.~~

~~**28.3(4) Required matching funds.** Communities approved for financing shall provide matching moneys in the following amounts:~~

~~a.—Sewered communities and unsewered incorporated communities with a population of less than 500 shall provide a 5 percent match.~~

~~b.—Communities with a population of 500 or more but less than 1,000 shall provide a 10 percent match.~~

~~c.—Communities with a population of 1,000 or more but less than 1,500 shall provide a 20 percent match.~~

~~d.—Communities with a population of 1,500 or more but less than 2,000 shall provide a 30 percent match.~~

~~e.—Communities with a population of 2,000 or more but less than 3,000 shall provide a 40 percent match.~~

~~**28.3(5) 28.3(4) Costs.** All eligible costs must be documented to the satisfaction of the authority before proceeds may be disbursed. The applicant must declare how much of the total project costs are attributable to complying with the changes to the water quality standards adopted by DNR in calendar year 2006.~~

~~**28.3(6) 28.3(5) Record retention.** The recipient shall maintain records that document all costs associated with the project. The recipient shall agree to provide access to these records to the authority. The recipient shall retain such records and documents for inspection and audit purposes for a period of three years from the date of the final disbursement of grant funds.~~

~~**28.3(7) 28.3(6) Site access.** The recipient shall agree to provide the authority, the department and the department's agent access to the project site at all times during the construction process to verify that the funds are being used for the purpose intended and that the construction work meets applicable state and federal requirements.~~

ITEM 5. Amend rule 265—28.4(81GA, HF2782), parenthetical implementation statute, as follows:

265—28.4(81GA, HF2782 16) Termination; rectification of deficiencies; disputes.

ITEM 6. Amend **265—Chapter 28**, implementation sentence, as follows:

These rules are intended to implement 2006 Iowa Acts, House File 2782, section 63 Iowa Code chapter 16 as amended by 2018 Iowa Acts, Senate File 512.

ARC 4088C**LABOR SERVICES DIVISION[875]****Notice of Intended Action****Proposing rule making related to hoistway lighting and conduit and providing an opportunity for public comment**

The Elevator Safety Board hereby proposes to amend Chapter 71, “Administration of the Conveyance Safety Program,” Chapter 72, “Conveyances Installed On or After January 1, 1975,” and Chapter 73, “Conveyances Installed Prior to January 1, 1975,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 89A.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 89A.

Purpose and Summary

These proposed amendments would require additional lighting and conduit for hoistways of new elevators; also, when an elevator controller is being replaced, additional hoistway lighting would be required.

Fiscal Impact

The estimated installation cost for hoistway lighting is \$100 per floor. Conduit is typically part of the package for a new elevator, but some elevator mechanics do not use the conduit. Labor costs to install the conduit are minimal.

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 875—Chapter 66.

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 November 14, 2018. Comments should be directed to:

Kathleen Uehling
Division of Labor Services
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Email: kathleen.uehling@iwd.iowa.gov

Public Hearing

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

LABOR SERVICES DIVISION[875](cont'd)

November 14, 2018
11 a.m.

150 Des Moines 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 actions are proposed:

ITEM 1. Adopt the following **new** definition of "Center of the elevator path" in rule **875—71.1(89A)**:

"Center of the elevator path" means a vertical line through the center point of an elevator car top beginning 2 feet below the lower landing and ending 10 feet above the highest landing of an elevator.

ITEM 2. Adopt the following **new** subrules 72.10(3) and 72.10(4):

72.10(3) Permanent lighting shall be installed in the hoistway of an elevator contracted after March 1, 2019. Three-way switches to control the hoistway lighting shall be installed at the pit access door and the top landing access door. The lighting shall be sufficient to provide 10 foot-candles of light to the center of the elevator path measured when the car top lights are off. Engineering calculations that prove 10 foot-candles of light are provided to the center of the elevator path may be substituted for light meter measurements under circumstances such as a glass back car where use of a light meter is not practical.

72.10(4) For conveyances contracted after March 1, 2019, all electrical wiring in a machine room, control space, control room, machinery space, and hoistway shall comply with ANSI/NFPA 70 and shall be enclosed in metal conduit, flexible conduit, or metal raceways. However, this subrule shall not apply in applications such as traveling cables and car top work lights where movement is required for proper function, or to operating devices and control equipment where adjustment may be needed.

ITEM 3. Adopt the following **new** subrule 72.13(7):

72.13(7) *Hoistway lighting*. If the controller for an elevator is being replaced, permanent lighting shall be installed in the hoistway of the elevator. Three-way switches to control the hoistway lighting shall be installed at the pit access door and the top landing access door. The lighting shall be sufficient to provide 10 foot-candles of light to the center of the elevator path measured when the car top lights are off. Engineering calculations that prove 10 foot-candles of light are provided to the center of the elevator path may be substituted for light meter measurements under circumstances such as a glass back car where use of a light meter is not practical.

ITEM 4. Adopt the following **new** subrule 73.8(8):

73.8(8) *Hoistway lighting*. If the controller for an elevator is being replaced, permanent lighting shall be installed in the hoistway of the elevator. Three-way switches to control the hoistway lighting shall be installed at the pit access door and the top landing access door. The lighting shall be sufficient to provide 10 foot-candles of light to the center of the elevator path measured when the car top lights are off. Engineering calculations that prove 10 foot-candles of light are provided to the center of the elevator path may be substituted for light meter measurements under circumstances such as a glass back car where use of a light meter is not practical.

ARC 4094C**MEDICINE BOARD[653]****Notice of Intended Action****Proposing rule making related to application and licensure fees for acupuncturists and genetic counselors and providing an opportunity for public comment**

The Board of Medicine hereby proposes to amend Chapter 8, “Fees,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 147, 148 and 272C.

Purpose and Summary

This rule making proposes to amend Chapter 8, which establishes the application and licensure fees for acupuncturists and genetic counselors. New subrule 8.14(1) references 653—Chapter 20, “Licensure of Genetic Counselors,” which is proposed in **ARC 4095C** (IAB 10/24/18).

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

Licensure and examination fees in Chapter 8 are not subject to waiver or variance pursuant to 653—Chapter 3 or any other provision of law.

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 November 20, 2018. Comments should be directed to:

Kent Nebel
Iowa Board of Medicine
400 S.W. 8th 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:

November 20, 2018
11:30 a.m. to 12 noon

Board Office, Suite C
400 S.W. 8th Street
Des Moines, Iowa

MEDICINE BOARD[653](cont'd)

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 8.2(2) as follows:

8.2(2) Fees for acupuncturists. The following fees apply to licensure for acupuncturists.

a. to f. No change.

g. Penalty for failure to renew before expiration, \$50.

ITEM 2. Adopt the following **new** rule 653—8.14(147,148,272C):

653—8.14(147,148,272C) Application and licensure fees for genetic counselors.

8.14(1) Licensure provisions for genetic counselors. Licensure provisions for genetic counselors can be found at 653—Chapter 20, “Licensure of Genetic Counselors.”

8.14(2) Fees for genetic counselors. The following fees apply to licensure and provisional licensure for genetic counselors.

a. Initial application fee for licensure, \$200.

b. Reactivation of application for licensure, \$100.

c. Renewal of an active license, \$200.

d. Penalty for failure to renew before expiration, \$50.

e. Upon written request and payment of the designated fee, the board shall provide the following information about the status of a genetic counselor's license:

(1) Certified statement that verifies the status of licensure in Iowa that requires the board seal or a letter of good standing, \$25.

(2) Verification of the status of licensure in Iowa that does not require a certified statement or letter, \$20.

f. Fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks, \$45.

g. Fee for reinstatement of a license, \$300.

ARC 4093C

MEDICINE BOARD[653]

Notice of Intended Action

Proposing rule making related to standards of practice for medical directors for medical spas 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 section 147.76.

MEDICINE BOARD[653](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 148 and 272C.

Purpose and Summary

This rule making amends rule 653—13.8(148,272C), which establishes the minimum requirements for a physician who serves as a medical director at a medical spa.

Fiscal Impact

This rule making will likely increase the pool of potential providers at medical spas and increase access to medical aesthetic services provided at medical spas. It will likely have a positive fiscal impact, which is difficult to measure at this time.

Jobs Impact

This rule making will likely increase the pool of potential providers at medical spas and increase access to medical aesthetic services provided at medical spas. It will likely have a positive jobs impact, which is difficult to measure at this time.

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 November 20, 2018. Comments should be directed to:

Kent Nebel
Iowa Board of Medicine
400 S.W. 8th 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:

November 20, 2018
10 a.m.

Board Office, Suite C
400 S.W. 8th Street
Des Moines, Iowa

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

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

MEDICINE BOARD[653](cont'd)

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend rule 653—13.8(148,272C) as follows:

653—13.8(148,272C) Standards of practice—medical directors at medical spas—delegation and supervision of medical aesthetic services performed by qualified licensed or certified nonphysician persons or qualified laser technicians. This rule establishes standards of practice for a physician or surgeon or osteopathic physician or surgeon who serves as a medical director at a medical spa.

13.8(1) Definitions. As used in this rule:

“Alter” means to change the cellular structure of living tissue.

“Capable of” means any means, method, device or instrument which, if used as intended or otherwise to its greatest strength, has the potential to alter or damage living tissue below the superficial epidermal cells.

“Damage” means to cause a harmful change in the cellular structure of living tissue.

“Delegate” means to entrust or transfer the performance of a medical aesthetic service to qualified licensed or certified nonphysician persons or qualified laser technicians.

“Medical aesthetic service” means the diagnosis, treatment, or correction of human conditions, ailments, diseases, injuries, or infirmities of the skin, hair, nails and mucous membranes by any means, methods, devices, or instruments including the use of a biological or synthetic material, chemical application, mechanical device, or displaced energy form of any kind if it alters or damages or is capable of altering or damaging living tissue below the superficial epidermal cells, with the exception of hair removal. Medical aesthetic service includes, but is not limited to, the following services: ablative laser therapy; vaporizing laser therapy; nonsuperficial light device therapy; injectables; tissue alteration services; nonsuperficial light-emitting diode therapy; nonsuperficial intense pulse light therapy; nonsuperficial radiofrequency therapy; nonsuperficial ultrasonic therapy; nonsuperficial exfoliation; nonsuperficial microdermabrasion; nonsuperficial dermaplane exfoliation; nonsuperficial lymphatic drainage; collagen induction therapy (microneedling); fat-freezing treatment (cool sculpting); botox injections; collagen injections; and tattoo removal.

“Medical director” means a physician who assumes the role of, or holds oneself out as, medical director ~~or a physician who serves as a medical advisor for~~ at a medical spa. The medical director is responsible for implementing policies and procedures to ensure quality patient care and for the delegation and supervision of medical aesthetic services ~~to performed by qualified licensed or certified nonphysician persons or qualified laser technicians at a medical spa.~~ The medical director is ultimately responsible for all medical aesthetic services performed by qualified licensed or certified nonphysician persons or qualified laser technicians at a medical spa.

“Medical spa” means any entity, however organized, which is advertised, announced, established, or maintained for the purpose of providing medical aesthetic services. Medical spa shall not include a dermatology practice which is wholly owned and controlled by one or more Iowa-licensed physicians if at least one of the owners is actively practicing at each location.

“Nonsuperficial” means that the therapy alters or damages or is capable of altering or damaging living tissue below the superficial epidermal cells.

“Qualified laser technician” means any person, licensed or unlicensed, who has successfully completed a minimum of 120 hours of training, including a minimum of 40 hours of didactic study and 80 hours of clinical training, in the safe and effective use of lasers in the performance of medical aesthetic services at an accredited laser training program. For the purposes of this rule, a qualified

MEDICINE BOARD[653](cont'd)

laser technician may only use lasers in the performance of delegated medical aesthetic services under the supervision of a qualified supervising physician at a medical spa. An unlicensed qualified laser technician may not perform any other medical aesthetic services defined in this rule.

“Qualified licensed or certified nonphysician person” means any person who is not licensed to practice medicine and surgery or osteopathic medicine and surgery but who is licensed or certified by another health- or skin care-related licensing board in Iowa and is qualified to perform delegated medical aesthetic services under the supervision of a qualified supervising physician at a medical spa.

“Supervision” means the oversight of qualified licensed or certified nonphysician persons or qualified laser technicians who perform medical aesthetic services delegated by a medical director.

13.8(2) Practice of medicine. The performance of medical aesthetic services is the practice of medicine. A medical aesthetic service shall only be performed by qualified licensed or certified nonphysician persons or qualified laser technicians if the service has been delegated by ~~the~~ a medical director who is responsible for supervision of the services performed at a medical spa in Iowa. ~~A medical director shall not delegate medical aesthetic services to nonphysician persons who are not appropriately licensed or certified in Iowa.~~

13.8(3) Medical director. A physician who serves as medical director at a medical spa shall:

- a. Hold an active unrestricted Iowa medical license to supervise each delegated medical aesthetic service;
- b. Possess the appropriate education, training, experience and competence to safely supervise each delegated medical aesthetic service;
- c. Retain responsibility for the supervision of each medical aesthetic service performed by qualified licensed or certified nonphysician persons or qualified laser technicians;
- d. Ensure that advertising activities do not include false, misleading, or deceptive representations; and
- e. Be clearly identified as the medical director in all advertising activities, Internet websites and signage related to the medical spa.

13.8(4) Delegated medical aesthetic service. When a medical director delegates a medical aesthetic service to qualified licensed or certified nonphysician persons or qualified laser technicians, the service shall be:

- a. Within the medical director’s scope of practice and medical competence to supervise;
- b. Of the type that a reasonable and prudent physician would conclude is within the scope of sound medical judgment to delegate; and
- c. A routine and technical service, the performance of which does not require the skill of a licensed physician.

13.8(5) Supervision. A medical director who delegates performance of a medical aesthetic service to qualified licensed or certified nonphysician persons or qualified laser technicians is responsible for providing appropriate supervision. The medical director shall:

- a. Ensure that all licensed or certified nonphysician persons or qualified laser technicians are qualified and competent to safely perform each delegated medical aesthetic service by personally assessing the person’s education, training, experience and ability;
- b. Ensure that a qualified licensed or certified nonphysician person does not perform any medical aesthetic services which are beyond the scope of that person’s license or certification unless the person is supervised by a qualified supervising physician;
- c. Ensure that all qualified licensed or certified nonphysician persons or qualified laser technicians receive direct, in-person, on-site supervision from the medical director or other qualified licensed physician at least four hours each week and that the regular supervision is documented;
- d. Provide on-site review of medical aesthetic services performed by qualified licensed or certified nonphysician persons or qualified laser technicians each week and review at least 10 percent of patient charts for medical aesthetic services performed by qualified licensed or certified nonphysician persons or qualified laser technicians;
- e. Be physically located, at all times, within 60 miles of the location where ~~qualified licensed or certified nonphysician persons perform~~ delegated medical aesthetic services are performed;

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f. Be available, in person or electronically, at all times, to consult with qualified licensed or certified nonphysician persons or qualified laser technicians who perform delegated medical aesthetic services, particularly in case of injury or an emergency;

g. Assess the legitimacy and safety of all equipment or other technologies being used by qualified licensed or certified nonphysician persons or qualified laser technicians who perform delegated medical aesthetic services;

h. Develop and implement protocols for responding to emergencies or other injuries suffered by persons receiving delegated medical aesthetic services performed by qualified licensed or certified nonphysician persons or qualified laser technicians;

i. Ensure that all qualified licensed or certified nonphysician persons or qualified laser technicians maintain accurate and timely medical records for the delegated medical aesthetic services they perform;

j. Ensure that each patient provides appropriate informed consent for medical aesthetic services performed by the medical director or other qualified licensed physician and all qualified licensed or certified nonphysician persons or qualified laser technicians and that such informed consent is timely documented in the patient's medical record;

k. Ensure that the identity and licensure and certification of the medical director, other qualified licensed physicians, and all qualified licensed or certified nonphysician persons or qualified laser technicians are visibly displayed at each medical spa where they perform medical aesthetic services and provided in writing to each patient receiving medical aesthetic services at a medical spa; and

l. Ensure that the board receives written verification of the education and training of all qualified licensed or certified nonphysician persons or qualified laser technicians who perform delegated medical aesthetic services at a medical spa, within 14 days of a request by the board.

13.8(6) *Continuing medical education.* All medical directors, qualified licensed or certified nonphysician persons and qualified laser technicians who practice at a medical spa in Iowa shall complete a minimum of 20 hours of continuing medical education in the safe and effective performance of medical aesthetic services each year.

~~13.8(6)~~ **13.8(7)** *Exceptions.* This rule is not intended to apply to physicians who serve as medical directors of licensed medical facilities, clinics or practices that provide medical aesthetic services as part of or incident to their other medical services.

~~13.8(7)~~ **13.8(8)** *Physician assistants.* Nothing in ~~these rules~~ this rule shall be interpreted to contradict or supersede the rules established in 645—Chapters 326 and 327.

ARC 4082C

MEDICINE BOARD[653]

Notice of Intended Action

Proposing rule making related to standards of practice for medical cannabidiol 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, 148 and 272C.

State or Federal Law Implemented

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

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Purpose and Summary

This rule making amends rule 653—13.15(124E,147,148,272C), which establishes the standards of practice for the use of medical cannabidiol, by adding “ulcerative colitis” to 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 November 20, 2018. Comments should be directed to:

Kent Nebel
Iowa Board of Medicine
400 S.W. 8th 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:

November 20, 2018
9 a.m.

Board Office, Suite C
400 S.W. 8th Street
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

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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.
5. Crohn’s disease.
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.
9. Untreatable pain.
10. Ulcerative colitis.

ARC 4095C

MEDICINE BOARD[653]

Notice of Intended Action

Proposing rule making related to licensure of genetic counselors and providing an opportunity for public comment

The Board of Medicine hereby proposes to adopt new Chapter 20, “Licensure of Genetic Counselors,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in 2018 Iowa Acts, Senate File 2228, section 10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 147, 148 and 272C and 2018 Iowa Acts, Senate File 2228.

Purpose and Summary

This rule making proposes new Chapter 20, which establishes rules for licensure of genetic counselors. Chapter 20 has several cross references to rule 653—8.14(147,148,272C), which is proposed in **ARC 4094C** (IAB 10/24/18).

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. This rule making will likely expand the pool of genetic counselors and expand access to genetic counseling services in Iowa. It will likely have a positive fiscal impact, which is difficult to measure at this time.

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Jobs Impact

This rule making will likely expand the pool of genetic counselors and increase access to genetic counseling services in Iowa. It will likely have a positive jobs impact, which is difficult to measure at this time.

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 November 20, 2018. Comments should be directed to:

Kent Nebel
Iowa Board of Medicine
400 S.W. 8th 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:

November 20, 2018
11 a.m.

Board Office, Suite C
400 S.W. 8th Street
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following **new** 653—Chapter 20:

CHAPTER 20
LICENSURE OF GENETIC COUNSELORS

653—20.1(87GA,SF2228) Purpose. The licensure of genetic counselors is established to ensure that practitioners are qualified to provide to Iowans genetic counseling with reasonable skill and safety.

MEDICINE BOARD[653](cont'd)

The provisions of Iowa Code chapters 147 and 272C and 2018 Iowa Acts, Senate File 2228, authorize the board of medicine to establish eligibility requirements for licensure, evaluate the credentials of applicants for licensure, issue licenses to qualified applicants, institute continuing education requirements, investigate complaints and reports alleging that licensed genetic counselors have violated statutes and rules governing the practice of genetic counseling, make available participation in the Iowa physician health program, and discipline licensed genetic counselors found guilty of infractions as provided in state law and board rules.

653—20.2(87GA,SF2228) Scope of chapter. This chapter shall not be construed to apply to any of the following:

1. A physician or surgeon or an osteopathic physician or surgeon licensed under Iowa Code chapter 148, a registered nurse or an advanced registered nurse practitioner licensed under Iowa Code chapter 152, a physician assistant licensed under Iowa Code chapter 148C, or other persons licensed under Iowa Code chapter 147 when acting within the scope of the person's profession and doing work of a nature consistent with the person's education and training.
2. A person who is certified by the American Board of Medical Genetics and Genomics as a doctor of philosophy and is not a genetic counselor licensed pursuant to 2018 Iowa Acts, Senate File 2228, sections 5 to 11.
3. A person employed as a genetic counselor by the federal government or an agency thereof if the person provides genetic counseling services solely under the direction and control of the entity by which the person is employed.
4. A genetic counseling intern.

653—20.3(87GA,SF2228) Definitions.

"Active candidate status" means a person has met the requirements established by the American Board of Genetic Counseling to take the American Board of Genetic Counseling certification examination in general genetics and genetic counseling and has been granted this designation by the American Board of Genetic Counseling.

"American Board of Genetic Counseling" or *"ABGC"* means the United States-based commission, or its equivalent or successor organization, that validates entry-level competency in the practice of genetic counseling through professional certification.

"American Board of Medical Genetics and Genomics" or *"ABMGG"* means the United States-based commission, or its equivalent or successor organization, that validates entry-level competency in the practice of genetic counseling through professional certification.

"Board" means the board of medicine.

"Committee" means the licensure committee of the board.

"Genetic counseling" means the provision of services by a person who qualifies for a license under 2018 Iowa Acts, Senate File 2228, sections 5 to 11.

"Genetic counseling intern" means a student enrolled in a genetic counseling program accredited by the accreditation council for genetic counseling or the American Board of Medical Genetics and Genomics.

"Genetic counselor" means a person who is licensed under 2018 Iowa Acts, Senate File 2228, sections 5 to 11, to engage in the practice of genetic counseling.

"Qualified supervisor" means any person who is a genetic counselor licensed under 2018 Iowa Acts, Senate File 2228, sections 5 to 11, a physician licensed under Iowa Code chapter 148, or an advanced registered nurse practitioner licensed under Iowa Code chapter 152.

"Supervision" means supervision by a qualified supervisor who has the overall responsibility of assessing the work of a provisional licensee, provided that an annual supervision contract signed by the qualified supervisor and the provisional licensee is on file with both parties. "Supervision" does not require the qualified supervisor's presence during the performance of services.

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653—20.4(87GA,SF2228) Scope of practice. A person licensed pursuant to 2018 Iowa Acts, Senate File 2228, sections 5 to 11, may do any of the following:

1. Obtain and evaluate individual, family, and medical histories to determine genetic risk for genetic and medical conditions and diseases in a patient, the patient's offspring, and other family members.
2. Discuss the features, history, means of diagnosis, genetic and environmental factors, and management of risk for genetic and medical conditions and diseases.
3. Identify, order, and coordinate genetic laboratory tests and other diagnostic studies as appropriate for the genetic assessment of a patient.
4. Refer a patient to a specialty or subspecialty department as necessary for the purpose of collaborating on diagnosis and treatment involving multiple body systems and general medical management.
5. Integrate genetic laboratory test results and other diagnostic studies with personal and family medical history to assess and communicate risk factors for genetic and medical conditions and diseases.
6. Explain the clinical implications of genetic laboratory tests and other diagnostic studies and their results.
7. Evaluate the responses of a patient or patient's family to the condition or risk of recurrence and provide patient-centered genetic counseling and anticipatory guidance.
8. Identify and utilize community resources that provide medical, educational, financial, and psychosocial support and advocacy.
9. Provide written documentation of medical, genetic, and counseling information for families and health care professionals.

653—20.5(87GA,SF2228) Titles used. A genetic counselor licensed under 2018 Iowa Acts, Senate File 2228, sections 5 to 11, may use the words "genetic counselor" or "licensed genetic counselor" or the corresponding abbreviation "LGC" after the person's name. Persons who possess a provisional license shall add the designation "provisional licensed genetic counselor."

653—20.6(87GA,SF2228) Qualifications for licensure.

- 20.6(1)** Each applicant for licensure under 2018 Iowa Acts, Senate File 2228, sections 5 to 11, shall:
- a. Submit an application form and supporting documentation as prescribed by the board.
 - b. Hold active certification as a genetic counselor by the American Board of Genetic Counseling, as a genetic counselor by the American Board of Medical Genetics and Genomics, or as a medical geneticist by the American Board of Medical Genetics and Genomics, or the successor to any of the aforementioned organizations.

20.6(2) A licensee shall maintain active certification as a genetic counselor by the American Board of Genetic Counseling, as a genetic counselor by the American Board of Medical Genetics and Genomics, or as a medical geneticist by the American Board of Medical Genetics and Genomics, or the successor to any of the aforementioned organizations.

653—20.7(87GA,SF2228) Qualifications for provisional licensure. The board may issue a provisional license to an applicant who meets all of the requirements for licensure except for the certification component and who has been granted active candidate status by the American Board of Genetic Counseling or the American Board of Medical Genetics and Genomics.

20.7(1) The applicant shall submit a provisional license application form, proof of active candidate status, and supporting documentation prescribed by the board.

20.7(2) A provisional license shall expire and become inactive upon the earliest of the following:

- a. Issuance of a license as a genetic counselor by the board.
 - b. Loss of active candidate status.
- (1) A person holding a provisional license which is inactive due to loss of active candidate status may submit an application for reactivation of the provisional license upon demonstrating that active candidate status has been reestablished.

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- (2) An application for extension of a provisional license shall be signed by a qualified supervisor.
c. The date printed on the provisional license.

20.7(3) A person with a provisional license shall work at all times under the supervision of a qualified supervisor.

653—20.8(147,87GA,SF2228) Application requirements.

20.8(1) *Application for licensure.* To apply for a license to practice genetic counseling, an applicant shall:

a. Submit the completed application form provided by the board, including required credentials and documents, a completed fingerprint packet and a sworn statement by the applicant attesting to the truth of all information provided by the applicant;

b. Pay the nonrefundable initial application fee identified in 653—paragraph 8.14(2) “a” and pay the fee identified in 653—paragraph 8.14(2) “f” for the evaluation of the fingerprint packet and the national criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

20.8(2) *Contents of the application form.* Each applicant shall submit the following information on the application form provided by the board:

a. The applicant’s full legal name, date and place of birth, home address, mailing address, principal business address, and personal email address regularly used by the applicant or licensee for correspondence with the board;

b. A photograph of the applicant suitable for positive identification;

c. A chronology accounting for all time periods from the date the applicant entered a genetic counseling training program or educational institution to the date of the application;

d. The other jurisdictions in the United States or other nations or territories in which the applicant is authorized to practice genetic counseling, including license, certificate of registration or certification number and date of issuance;

e. Full disclosure of the applicant’s involvement in civil litigation related to the practice of genetic counseling in any jurisdiction of the United States or other nations or territories. Copies of the legal documents may be requested if needed during the review process;

f. A statement disclosing and explaining any informal or nonpublic actions, warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical, genetic counseling or professional regulatory authority; an educational institution; a training or research program; or a health facility in any jurisdiction;

g. A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

h. A certificate that demonstrates that the applicant holds active certification in genetic counseling by the American Board of Genetic Counseling or American Board of Medical Genetics and Genomics for genetic counselor licensure or proof of active candidate status for provisional licensure;

i. A statement of the applicant’s physical and mental health, including full disclosure and a written explanation of any dysfunction or impairment which may affect the ability of the applicant to engage in the practice of genetic counseling and provide patients with safe and healthful care;

j. A copy of the applicant’s genetic counseling degree issued by an educational institution. If a copy of the genetic counseling degree cannot be provided because of extraordinary circumstances, the board may accept other reliable evidence that the applicant obtained a genetic counseling degree from a specific educational institution;

k. A complete translation of any diploma not written in English. An official transcript, written in English and received directly from the educational institution, showing graduation from a genetic counseling training program or an educational institution is a suitable alternative;

l. A sworn statement from an official of the educational institution certifying the date the applicant received the genetic counseling degree and acknowledging what, if any, derogatory comments exist in the institution’s record about the applicant. If a sworn statement from an official of the educational institution

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cannot be provided because of extraordinary circumstances, the board may accept other reliable evidence that the applicant obtained a genetic counseling degree from a specific educational institution;

m. An official transcript sent directly from a genetic counseling training program or an educational institution attended by the applicant and, if requested by the board, an English translation of the official transcript;

n. Verification of an applicant's hospital and clinical staff privileges or employers and other professional experience for the past five years, if requested by the board; and

o. A completed fingerprint packet to facilitate a national criminal history background check. The fee for evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

20.8(3) *Application cycle.* If the applicant does not submit all materials, including a completed fingerprint packet, within 90 days of the board's initial request for further information, the application shall be considered inactive. The board office shall notify the applicant of this change in status.

a. To reactivate the application, an applicant shall submit a nonrefundable reactivation of application fee identified in 653—paragraph 8.14(2)“*b*” and shall update application materials if requested by the board. The period for requesting reactivation is limited to 30 days from the date the applicant is notified that the application is inactive, unless the applicant is granted an extension in writing by the committee or the board.

b. Once the application reactivation period is expired, an applicant must reapply and submit a new, nonrefundable initial application fee and a new application, including required documents and credentials.

20.8(4) *Applicant responsibilities.* An applicant for licensure to practice genetic counseling bears full responsibility for each of the following:

a. Paying all fees charged by regulatory authorities, national testing or credentialing organizations, health facilities, and educational institutions providing the information specified in subrule 20.8(2);

b. Providing accurate, up-to-date, and truthful information on the application form including, but not limited to, that specified under subrule 20.8(2) related to prior professional experience, education, training, active certification, licensure or registration, and disciplinary history.

20.8(5) *Licensure application review process.* A process established by the board shall be utilized to review each application. Priority shall be given to processing a licensure application when a written request is received in the board office from an applicant whose practice will primarily involve provision of services to underserved populations, including but not limited to persons who are minorities or low-income or who live in rural areas.

a. An application for initial licensure shall be considered open from the date the application form is received in the board office with the nonrefundable initial application fee.

b. After reviewing each application, staff shall notify the applicant about how to resolve any problems identified by the reviewer. An applicant shall provide additional information when requested by staff or the board.

c. If the final review indicates no questions or concerns regarding the applicant's qualifications for licensure, staff may administratively issue the license. Staff may issue the license without having received a report on the applicant from the FBI.

d. If the final review indicates questions or concerns that cannot be remedied by continued communication with the applicant, the executive director, the director of licensure and the director of legal affairs shall determine if the questions or concerns indicate any uncertainty about the applicant's current qualifications for licensure.

(1) If there is no current concern, staff shall administratively issue the license.

(2) If any concern exists, staff shall refer the application to the committee.

e. Staff shall refer to the committee for review matters which include, but are not limited to, falsification of information on the application, criminal record, malpractice, substance abuse, competency, physical or mental illness, or professional disciplinary history.

f. If the committee is able to eliminate questions or concerns without dissension from staff or a committee member, the committee may direct staff to issue the license administratively.

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g. If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee shall recommend that the board:

- (1) Request an investigation;
- (2) Request that the applicant appear for an interview;
- (3) If an applicant has not engaged in active practice in the past three years in any jurisdiction of the United States, require an applicant to:
 1. Successfully complete continuing education or retraining programs in areas directly related to the safe and healthful practice of genetic counseling deemed appropriate by the board or committee;
 2. Successfully pass a competency evaluation approved by the board;
 3. Successfully pass an examination approved by the board; or
 4. Successfully complete a reentry to practice program or monitoring program approved by the board;
- (4) Issue a license;
- (5) Issue a license under certain terms and conditions or with certain restrictions;
- (6) Request that the applicant withdraw the licensure application; or
- (7) Deny a license.

h. The board shall consider applications and recommendations from the committee and shall:

- (1) Request an investigation;
- (2) Request that the applicant appear for an interview;
- (3) If an applicant has not engaged in active practice in the past three years in any jurisdiction of the United States, require an applicant to:
 1. Successfully complete continuing education or retraining programs in areas directly related to the safe and healthful practice of genetic counseling deemed appropriate by the board or committee;
 2. Successfully pass a competency evaluation approved by the board;
 3. Successfully pass an examination approved by the board; or
 4. Successfully complete a reentry to practice program or monitoring program approved by the board;
- (4) Issue a license;
- (5) Issue a license under certain terms and conditions or with certain restrictions;
- (6) Request that the applicant withdraw the licensure application; or
- (7) Deny a license. The board may deny a license for any grounds on which the board may discipline a license.

20.8(6) *Grounds for denial of licensure.* The board, on the recommendation of the committee, may deny an application for licensure for any of the following reasons:

a. Failure to meet the requirements for licensure specified in this chapter pursuant to 2018 Iowa Acts, Senate File 2228, section 7.

b. Pursuant to Iowa Code section 147.4, upon any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code section 147.55 and 2018 Iowa Acts, Senate File 2228, section 11, or in rule 653—20.20(272C).

20.8(7) *Preliminary notice of denial.* Prior to the denial of licensure to an applicant, the board shall issue a preliminary notice of denial that shall be sent to the applicant by regular, first-class mail at the address provided by the applicant. The preliminary notice of denial is a public record and shall cite the factual and legal basis for denying the application, notify the applicant of the appeal process, and specify the date upon which the denial will become final if it is not appealed.

20.8(8) *Appeal procedure.* An applicant who has received a preliminary notice of denial may appeal the denial and request a hearing on the issues related to the preliminary notice of denial by serving a request for hearing upon the executive director not more than 30 calendar days following the date when the preliminary notice of denial was mailed. The applicant's current address shall be provided in the request for hearing. The request is deemed filed on the date it is received in the board office. If the request is received with a USPS nonmetered postmark, the board shall consider the postmark date as the date the request is filed. The request shall specify the factual or legal errors and that the applicant

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desires an evidentiary hearing and may provide additional written information or documents in support of licensure.

20.8(9) *Hearing.* If an applicant appeals the preliminary notice of denial and requests a hearing, the hearing shall be a contested case and subsequent proceedings shall be conducted in accordance with rule 653—25.30(17A).

- a.* License denial hearings are contested cases open to the public.
- b.* Either party may request issuance of a protective order in the event privileged or confidential information is submitted into evidence.
- c.* Evidence supporting the denial of the license may be presented by an assistant attorney general.
- d.* While each party shall have the burden of establishing the affirmative of matters asserted, the applicant shall have the ultimate burden of persuasion as to the applicant's qualification for licensure.
- e.* The board, after a hearing on license denial, may issue or deny the license. The board shall state the reasons for its decision and may issue the license, issue the license with restrictions, or deny the license. The final decision is a public record.
- f.* Judicial review of a final order of the board denying licensure, or issuing a license with restrictions, may be sought in accordance with the provisions of Iowa Code section 17A.19, which are applicable to judicial review of any agency's final decision in a contested case.

20.8(10) *Finality.* If an applicant does not appeal a preliminary notice of denial in accordance with subrule 20.8(8), the preliminary notice of denial automatically becomes final. A final denial of an application for licensure is a public record.

20.8(11) *Failure to pursue appeal.* If an applicant appeals a preliminary notice of denial in accordance with subrule 20.8(8) but the applicant fails to pursue that appeal to a final decision within one year from the date of the preliminary notice of denial, the board may dismiss the appeal. The appeal may be dismissed only after the board sends a written notice by first-class mail to the applicant at the applicant's last-known address. The notice shall state that the appeal will be dismissed and the preliminary notice of denial will become final if the applicant does not contact the board to schedule the appeal hearing within 30 days of the date the letter is mailed from the board office. Upon dismissal of an appeal, the preliminary notice of denial becomes final. A final denial of an application for licensure under this rule is a public record.

20.8(12) *Waiver or variance prohibited.* Provisions of this rule are not subject to waiver or variance pursuant to 653—Chapter 3 or any other provision of law.

653—20.9(147,87GA,SF2228) Display of license and notification required to change the board's data system.

20.9(1) *Display of license.* Licensed genetic counselors shall display the license issued by the board in a conspicuous place in their primary place of business.

20.9(2) *Change of contact information.* Licensees shall notify the board within one month of a change in home address, address of the place of practice, home or practice telephone number, or personal email address regularly used by the applicant or licensee for correspondence with the board.

20.9(3) *Change of full legal name.* A licensee shall notify the board of any change in the licensee's full legal name within one month of making the name change. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

20.9(4) *Deceased.* A licensee's file shall be closed and labeled "deceased" when the board receives a copy of the licensee's death certificate or other reliable information of the licensee's death.

653—20.10(147,87GA,SF2228,272C) Biennial renewal of license required. Pursuant to 2018 Iowa Acts, Senate File 2228, section 7, a license expires on October 31 of odd-numbered years and can be renewed for the fee identified in 653—paragraph 8.14(2) "c."

20.10(1) The applicant for renewal shall provide:

- a.* A renewal application provided by the board.
- b.* A certificate that demonstrates that the applicant holds current active certification by the ABMGG or ABGC.

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c. Satisfactory evidence to the board that in the period since the license was issued or last renewed, the applicant has completed 30 hours of National Society of Genetic Counselors or American Board of Medical Genetics and Genomics continuing education units as approved by the board.

20.10(2) Expiration date. Certificates of licensure to practice genetic counseling shall expire on October 31 in odd years.

20.10(3) Prorated fees. The first renewal fee for a license shall be prorated on a monthly basis according to the date of issue.

20.10(4) Renewal requirements and penalties for late renewal. Each licensee shall be sent a renewal notice at least 60 days prior to the expiration date. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of responsibility for renewing that license.

a. When online renewal is used, the licensee must complete the online renewal prior to midnight on December 31 in order to ensure that the license will not become inactive. The license becomes inactive and invalid at 12:01 a.m. on January 1.

b. Upon receipt of the completed renewal application, staff shall administratively issue a license that expires on October 31 of odd-numbered years. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration.

c. Every renewal shall be displayed in connection with the original certificate of licensure.

d. If the licensee fails to submit the renewal application and renewal fee prior to the expiration date on the current license, a penalty fee identified in 653—paragraph 8.14(2)“d” shall be assessed for renewal in the grace period, a period up until January 1 when the license becomes inactive if not renewed.

20.10(5) Inactive license. Failure of a licensee to renew by January 1 will result in invalidation of the license, and the license will become inactive.

a. Licensees are prohibited from engaging in the practice of genetic counseling once the license is inactive.

b. Having a genetic counselor license in inactive status does not preclude the board from taking disciplinary actions authorized in Iowa Code section 147.55 or 2018 Iowa Acts, Senate File 2228, section 11.

653—20.11(147,272C) Reinstatement of an inactive license.

20.11(1) Reinstatement requirements. Licensees who allow their licenses to go inactive by failing to renew may apply for reinstatement of a license. Pursuant to Iowa Code section 147.11, applicants for reinstatement shall:

a. Submit upon forms provided by the board a completed application for reinstatement of a license to practice genetic counseling. The application shall include the following information:

(1) The applicant’s full legal name, date and place of birth, home address, mailing address, principal business address, and personal email address regularly used by the applicant or licensee for correspondence with the board.

(2) Every jurisdiction in which the applicant is or has been authorized to practice, including license numbers and dates of issuance.

(3) Full disclosure of the applicant’s involvement in civil litigation related to the practice of genetic counseling in any jurisdiction of the United States or other nations or territories. Copies of the legal documents may be requested if needed during the review process.

(4) A statement disclosing and explaining any warnings issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical, genetic counseling or professional regulatory authority; an educational institution; a training or research program; or a health facility in any jurisdiction.

(5) A statement of the applicant’s physical and mental health, including full disclosure and a written explanation of any dysfunction or impairment which may affect the ability of the applicant to engage in practice and provide patients with safe and healthful care.

MEDICINE BOARD[653](cont'd)

(6) Verification of an applicant's hospital and clinical staff privileges and other professional experience for the past five years if requested by the board.

(7) A chronology accounting for all time periods from the date of initial licensure.

(8) A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

b. Submit a completed fingerprint packet to facilitate a national criminal history background check. The fee identified in 653—paragraph 8.14(2) “*f*” for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

c. Pay the reinstatement fee identified in 653—paragraph 8.14(2) “*g*” plus the fee identified in 653—paragraph 8.14(2) “*f*” for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks.

d. Provide a certificate which demonstrates that the applicant holds current active certification in genetic counseling by ABGC or ABMGG.

e. Meet any new requirements instituted since the license lapsed.

20.11(2) Reinstatement restrictions. Pursuant to Iowa Code section 272C.3(2) “*d*,” the committee may require an applicant who has not engaged in active practice in the past three years in any jurisdiction of the United States to meet any or all of the following requirements prior to reinstatement of an inactive license:

a. Successfully complete continuing education or retraining programs in areas directly related to the safe and healthful practice of genetic counseling deemed appropriate by the board or committee;

b. Successfully pass a competency evaluation approved by the board;

c. Successfully pass an examination approved by the board; or

d. Successfully complete a reentry to practice program or monitoring program approved by the board.

653—20.12(272C) Code of Ethics. The NSGC Code of Ethics prepared and approved by the National Society of Genetic Counselors shall be utilized by the board as guiding principles in the practice of genetic counseling in this state.

653—20.13(272C) Nonpayment of state debt. 653—Chapter 12 shall apply to licensed genetic counselors.

653—20.14(272C) Standards of practice—office practices. Rule 653—13.7(147,148,272C) shall apply to licensed genetic counselors.

653—20.15(272C) Iowa physician health committee. 653—Chapter 14 shall apply to licensed genetic counselors.

653—20.16(272C) Child support noncompliance. 653—Chapter 15 shall apply to licensed genetic counselors.

653—20.17(272C) Student loan default or noncompliance. 653—Chapter 16 shall apply to licensed genetic counselors.

653—20.18(272C) Military service and veteran reciprocity. 653—Chapter 18 shall apply to licensed genetic counselors.

653—20.19(272C) Mandatory reporting. 653—Chapter 22 shall apply to licensed genetic counselors.

653—20.20(272C) Grounds for discipline. 653—Chapter 23 shall apply to licensed genetic counselors.

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653—20.21(272C) Complaints and investigations. 653—Chapter 24 shall apply to licensed genetic counselors.

653—20.22(272C) Contested case proceedings. 653—Chapter 25 shall apply to licensed genetic counselors.

653—20.23(272C) Reinstatement after disciplinary action. 653—Chapter 26 shall apply to licensed genetic counselors.

653—20.24(87GA,SF2228,272C) Surrender of license to the board.

20.24(1) A genetic counselor whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the board shall promptly surrender the original license to the board.

20.24(2) A provisional licensee who loses active candidate status with the American Board of Genetic Counseling must immediately cease the practice of genetic counseling until the provisional licensee obtains an extension of the provisional license or obtains a new provisional license.

653—20.25(147,87GA,SF2228,272C) Waiver or variance prohibited. Fees in this chapter are not subject to waiver or variance pursuant to 653—Chapter 3 or any other provision of law.

These rules are intended to implement Iowa Code chapters 147, 148, and 272C and 2018 Iowa Acts, Senate File 2228.

ARC 4091C**PHARMACY BOARD[657]****Notice of Intended Action****Proposing rule making related to supervision of pharmacist-interns and providing an opportunity for public comment**

The Pharmacy Board hereby proposes to amend Chapter 4, “Pharmacist-Interns,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.76 and 155A.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 155A.6.

Purpose and Summary

This proposed amendment removes the limitation of a pharmacist to supervise no more than two pharmacist-interns concurrently.

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 can be determined. It is presumed that pharmacist-interns may have greater opportunity to seek employment in Iowa pharmacies that would no longer be limited to two pharmacist-interns concurrently, but the extent of that opportunity cannot be determined.

PHARMACY BOARD[657](cont'd)

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on November 13, 2018. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend rule 657—4.9(155A) as follows:

657—4.9(155A) Preceptor requirements.

4.9(1) and **4.9(2)** No change.

~~**4.9(3) Number of interns.** A preceptor may supervise no more than two pharmacist interns concurrently.~~

4.9(4) 4.9(3) Responsibility. A preceptor shall be responsible for all functions performed by a pharmacist-intern.

ARC 4092C**PHARMACY BOARD[657]****Notice of Intended Action****Proposing rule making related to pharmacy practice standards and providing an opportunity for public comment**

The Pharmacy Board hereby proposes to amend Chapter 8, “Universal Practice Standards,” and Chapter 13, “Telepharmacy Practice,” Iowa Administrative Code.

PHARMACY BOARD[657](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.76, 147.80 and 155A.13.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.80, 155A.13 and 155A.26.

Purpose and Summary

These proposed amendments provide clearer language relating to the required distance between a proposed telepharmacy site and a currently licensed pharmacy that provides prescription drugs to outpatients, consistent with language found in the Iowa Code, which pharmacy may be another licensed telepharmacy; require a pharmacy which intends to change license type to submit an application and establish that the pharmacy may be subject to an inspection by a Board compliance officer prior to issuance of the new license; implement a late penalty fee for late submission of a license change application; and authorize the Board to collect a fee for a written verification of a pharmacy license.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on November 13, 2018. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

PHARMACY BOARD[657](cont'd)

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 8.35(4) as follows:

8.35(4) Inspection of ~~new~~ pharmacy location.

a. A new pharmacy location in Iowa shall require an on-site inspection by an authorized agent of the board. Application for a pharmacy license and other required registrations shall be submitted to the board at least 14 days prior to the anticipated inspection. Any deficiencies identified during the inspection shall be corrected and verified by an authorized agent of the board prior to the issuance of the pharmacy license. Prescription drugs, including controlled substances, may not be delivered to a new pharmacy location prior to the delivery of the pharmacy license and registration certificates.

b. A pharmacy location in Iowa which is applying for a different license type than previously held may be subject to an inspection prior to the issuance of the new license.

ITEM 2. Amend subrule 8.35(6) as follows:

8.35(6) Pharmacy license changes. When a pharmacy changes its name, location, ownership, ~~or pharmacist in charge, or license type,~~ a completed pharmacy license application with a nonrefundable \$135 fee shall be submitted to the board pursuant to subrule 8.35(2). Upon receipt of the completed application and fee, the board shall issue an updated pharmacy license certificate, pending any necessary inspection pursuant to paragraph 8.35(4) "b," unless the board identifies any ground for denial of the license. Any restrictions or disciplinary history associated with the previous pharmacy shall remain unchanged. A pharmacy wishing to disassociate itself from the previously licensed pharmacy restrictions or disciplinary history may petition the board for such disassociation. The burden is on the pharmacy to demonstrate that the current pharmacy is not associated with or responsible for the pharmacy as it previously existed. The old license certificate shall be returned to the board within ten days of receiving the updated license certificate.

a. to d. No change.

e. License type. A change in pharmacy license type shall require submission of a pharmacy license application and appropriate fee prior to the change in license type. A pharmacy changing license type shall notify the pharmacist in charge and patients of the change in accordance with subrule 8.35(7).

f. License change application submission. An application for license change shall be timely submitted pursuant to this subrule. A licensed pharmacy that has timely submitted an application for license change and fee may continue to service Iowa patients while the license change is pending final approval. An applicant who has submitted an application for license change after the required date of submission pursuant to this subrule but within 30 days of the required date of submission shall be assessed a nonrefundable late penalty fee of \$135 in addition to the license fee. An applicant who has submitted an application for license change 31 days or later following the required date of submission pursuant to this subrule shall be assessed a nonrefundable late penalty fee of \$540.

ITEM 3. Adopt the following **new** subrule 8.35(9):

8.35(9) License verification fee. The board may require a nonrefundable fee of \$15 for completion of a request for written license verification of any pharmacy license.

ITEM 4. Amend rule 657—13.16(124,155A) as follows:

657—13.16(124,155A) Telepharmacy site—initial application.

13.16(1) License application. A telepharmacy site shall complete and submit to the board a limited use/telepharmacy license application and nonrefundable fee as provided in rule 657—8.35(155A). In addition to the application and fee, the telepharmacy site shall include the additional information identified in this rule.

13.16(2) CSA registration application. If controlled substances will be dispensed from the telepharmacy site, the telepharmacy site shall complete and submit, with the limited use/telepharmacy

PHARMACY BOARD[657](cont'd)

license application and fee, the CSA registration application and nonrefundable fee as provided in rule 657—10.1(124) 657—10.5(124).

13.16(3) No change.

13.16(4) *Distance to nearest ~~general~~ pharmacy that dispenses prescription drugs to outpatients.* The telepharmacy site application shall identify the nearest currently licensed pharmacy that dispenses prescription drugs to outpatients and shall provide evidence identifying the total driving distance between the proposed telepharmacy site and the nearest currently licensed ~~general~~ pharmacy that dispenses prescription drugs to outpatients.

a. If the distance between the proposed telepharmacy site and the nearest currently licensed ~~general~~ pharmacy that dispenses prescription drugs to outpatients is less than ten miles, the telepharmacy site shall submit a request for waiver of the distance requirement. The process and requirements for a request for waiver are identified in subrule 13.16(8).

b. No change.

13.16(5) to 13.16(7) No change.

13.16(8) *Request for distance waiver.* The board shall consider a request for waiver of the distance requirement between the proposed telepharmacy site and the nearest currently licensed pharmacy that dispenses prescription drugs to outpatients if the petitioner can demonstrate to the board that the proposed telepharmacy site is located in an area where there is limited access to pharmacy services and that there exist compelling circumstances that justify waiving the distance requirement.

a. No change.

b. In addition to the requirements of 657—Chapter 34, the request for waiver shall include evidence and specific information regarding each of the following, if applicable. If an item identified below does not apply to the proposed telepharmacy site, the request for waiver shall specifically state that the item does not apply.

(1) and (2) No change.

(3) That access to the nearest currently licensed ~~general~~ pharmacy that dispenses prescription drugs to outpatients is limited. A description of how the proposed telepharmacy site will improve patient access to pharmacy services shall be included.

(4) to (7) No change.

c. The board shall consider a request for waiver of the distance requirement during any open session of a meeting of the board. One or more representatives of the parties to the waiver request, including representatives of the proposed telepharmacy site, the managing pharmacy, and the nearest currently licensed ~~general~~ pharmacy that dispenses prescription drugs to outpatients, shall be invited and encouraged to attend the meeting at which the waiver request is scheduled for consideration to be available to respond to any questions.

d. No change.

ARC 4086C

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rule making related to temporary scheduling of cannabidiol drug products and providing an opportunity for public comment

The Pharmacy Board hereby proposes to amend Chapter 10, “Controlled Substances,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 124.201 and 124.201A.

PHARMACY BOARD[657](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 124.201A.

Purpose and Summary

This proposed rule making temporarily places into Schedule V of the Iowa Uniform Controlled Substances Act any drugs approved by the U.S. Food and Drug Administration (FDA) which contain cannabidiol (CBD) derived from cannabis and no more than 0.1 percent tetrahydrocannabinols (THC).

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on November 13, 2018. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

Emergency Rule Making Adopted by Reference

This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see **ARC 4085C**, IAB 10/24/18). The purpose of this Notice of Intended Action is to solicit public comment on that emergency rule making, whose subject matter is hereby adopted by reference.

ARC 4096C**PHARMACY BOARD[657]****Notice of Intended Action****Proposing rule making related to statewide protocols
and providing an opportunity for public comment**

The Pharmacy Board hereby proposes to amend Chapter 39, “Expanded Practice Standards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76 and 2018 Iowa Acts, Senate File 2322, section 7.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2018 Iowa Acts, Senate File 2322, sections 7 and 8.

Purpose and Summary

These proposed amendments establish that a pharmacist may participate in a statewide protocol developed by the Board in consultation with the Department of Public Health; establish the minimum requirements for participation in statewide protocols, including required pharmacist training and education and required notification to the patient’s primary care provider of the product dispensed pursuant to the statewide protocol; require that the continuing education for immunization administration be approved by the Accreditation Council for Pharmacy Education (ACPE) with the specific topic designator of “06” for pharmacists; and identify a repeal date for vaccine administration by pharmacists via a physician-signed protocol in compliance with 2018 Iowa Acts, Senate File 2322, section 8.

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 can be determined.

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on November 13, 2018. Comments should be directed to:

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

PHARMACY BOARD[657](cont'd)

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** rule 657—39.6(155A):

657—39.6(155A) Statewide protocols. A pharmacist may, pursuant to statewide protocols developed by the board in consultation with the department of public health and available on the board’s website at pharmacy.iowa.gov, prescribe and dispense medications pursuant to rules 657—39.8(155A), 657—39.9(155A), and 657—39.11(155A).

ITEM 2. Adopt the following **new** rule 657—39.8(155A):

657—39.8(155A) Statewide protocol—naloxone. An authorized pharmacist may prescribe and dispense naloxone to patients 18 years and older pursuant to a statewide protocol developed pursuant to rule 657—39.6(155A) and in compliance with this rule. An authorized pharmacist may only delegate the dispensing of naloxone to an authorized pharmacist-intern under the direct supervision of an authorized pharmacist.

39.8(1) Definitions. For the purposes of this rule, the following definitions shall apply:

“ACPE” means the Accreditation Council for Pharmacy Education.

“Authorized pharmacist” means an Iowa-licensed pharmacist who has completed the training requirements of this rule. “Authorized pharmacist” also includes an Iowa-registered pharmacist-intern who has completed the training requirements of this rule and is working under the direct supervision of an authorized pharmacist.

“Authorized pharmacist-intern” means an Iowa-registered pharmacist-intern who has completed the training requirements for an authorized pharmacist pursuant to this rule.

“Board” means the Iowa board of pharmacy.

“Patient” means an individual consulting with a pharmacist for drug therapy and may include an individual in a position to assist someone at risk of an opioid-related overdose.

39.8(2) Authorized pharmacist training. An authorized pharmacist shall document successful completion of an ACPE-approved continuing education program of at least one-hour duration related to naloxone utilization prior to dispensing naloxone pursuant to the statewide protocol.

39.8(3) Assessment. An authorized pharmacist shall assess a patient for eligibility to receive naloxone using criteria identified in the statewide protocol.

39.8(4) Patient education. Upon assessment and determination that a patient is eligible to receive and possess naloxone pursuant to the statewide protocol, an authorized pharmacist shall, prior to dispensing naloxone pursuant to the statewide protocol, provide training and education to the patient including, but not limited to, the information identified in this subrule. An authorized pharmacist may provide to the patient written materials that include, but may not be limited to, the information identified in this subrule, but the written materials shall not be in lieu of direct pharmacist consultation with the patient.

a. The signs and symptoms of opioid-related overdose as described in the statewide protocol.

PHARMACY BOARD[657](cont'd)

- b. The importance of calling 911 as soon as possible and the potential need for rescue breathing.
- c. The appropriate use and directions for administration of the naloxone to be dispensed pursuant to the statewide protocol.
- d. Adverse reactions of naloxone as well as reactions resulting from opioid withdrawal following administration.
- e. The proper storage conditions, including temperature excursions, of the naloxone product being dispensed.
- f. The expiration date of the naloxone product being dispensed and the appropriate disposal of the naloxone product upon expiration.
- g. Information about substance abuse or behavioral health treatment programs, if applicable.

39.8(5) Labeling. Naloxone dispensed pursuant to this rule shall be labeled in accordance with rule 657—6.10(126,155A), and the labeling shall not render the expiration date of the product illegible.

39.8(6) Reporting. As soon as reasonably possible, the authorized pharmacist shall notify the patient's primary health care provider of the naloxone product provided to the patient. If the patient does not have a primary health care provider, the authorized pharmacist shall provide the patient with a written record of the naloxone product provided to the patient and shall advise the patient to consult a physician.

39.8(7) Records. An authorized pharmacist shall maintain records of naloxone prescribed and dispensed pursuant to the statewide protocol.

ITEM 3. Adopt the following **new** rule 657—39.9(155A):

657—39.9(155A) Statewide protocol—nicotine replacement tobacco cessation products. An authorized pharmacist may prescribe and dispense nicotine replacement tobacco cessation products to patients 18 years and older pursuant to a statewide protocol developed pursuant to rule 657—39.6(155A) and in compliance with this rule. An authorized pharmacist may only delegate the dispensing of a nicotine replacement tobacco cessation product to an authorized pharmacist-intern under the direct supervision of an authorized pharmacist.

39.9(1) Definitions. For the purposes of this rule, the following definitions shall apply:

“ACPE” means the Accreditation Council for Pharmacy Education.

“Authorized pharmacist” means an Iowa-licensed pharmacist who has completed the training requirements of this rule. “Authorized pharmacist” also includes an Iowa-registered pharmacist-intern who has completed the training requirements of this rule and is working under the direct supervision of an authorized pharmacist.

“Authorized pharmacist-intern” means an Iowa-registered pharmacist-intern who has completed the training requirements for an authorized pharmacist pursuant to this rule.

“Board” means the Iowa board of pharmacy.

39.9(2) Authorized pharmacist training. An authorized pharmacist shall document successful completion of an ACPE-approved continuing education program of at least one-hour duration related to nicotine replacement tobacco cessation product utilization prior to dispensing such products under the statewide protocol.

39.9(3) Assessment. An authorized pharmacist shall assess a patient for appropriateness of receiving a nicotine replacement tobacco cessation product pursuant to the statewide protocol.

39.9(4) Patient counseling and instructions. Upon assessment and determination that provision of the nicotine replacement tobacco cessation product is appropriate pursuant to the statewide protocol, an authorized pharmacist shall, prior to dispensing such product, provide counseling and instructions to the patient pursuant to rule 657—6.14(155A).

39.9(5) Labeling. Nicotine replacement tobacco cessation products dispensed pursuant to this rule shall be labeled in accordance with rule 657—6.10(126,155A), and the labeling shall not render the expiration date of the product illegible.

39.9(6) Reporting. As soon as reasonably possible, the authorized pharmacist shall notify the patient's primary health care provider of the nicotine replacement tobacco cessation product provided to the patient. If the patient does not have a primary health care provider, the authorized pharmacist

PHARMACY BOARD[657](cont'd)

shall provide the patient with a written record of the nicotine replacement tobacco cessation product provided to the patient and shall advise the patient to consult a physician.

39.9(7) Records. An authorized pharmacist shall maintain records of nicotine replacement tobacco cessation products prescribed and dispensed pursuant to the statewide protocol.

ITEM 4. Amend rule 657—39.10(155A) as follows:

657—39.10(155A) Vaccine administration by pharmacists—physician-approved protocol. ~~An~~ Through June 30, 2019, an authorized pharmacist may administer vaccines pursuant to protocols established by the CDC in compliance with the requirements of this rule. An authorized pharmacist may only delegate the administration of a vaccine to an authorized pharmacist-intern under the direct supervision of the authorized pharmacist.

39.10(1) No change.

39.10(2) Authorized pharmacist training and continuing education. An authorized pharmacist shall document successful completion of the requirements in paragraph 39.10(2) “a” and shall maintain competency by completing and maintaining documentation of the continuing education requirements in paragraph 39.10(2) “b.”

a. No change.

b. *Continuing education.* During any pharmacist license renewal period, an authorized pharmacist who engages in the administration of vaccines shall complete and document at least one hour of ACPE-approved continuing education related to vaccines. with the ACPE topic designator “06” followed by the letter “P.”

c. No change.

39.10(3) to 39.10(6) No change.

39.10(7) Verification and reporting. The requirements of this subrule do not apply to influenza and other emergency vaccines administered via protocol pursuant to subrule 39.10(4). An authorized pharmacist shall:

a. No change.

b. ~~Within 30 days~~ As soon as reasonably possible following administration of a vaccine identified in subrule 39.10(5) or 39.10(6), report the vaccine administration to the statewide immunization registry or health information network and to the patient’s primary health care provider, if known.

ITEM 5. Adopt the following new rule 657—39.11(155A):

657—39.11(155A) Vaccine administration by pharmacists—statewide protocol. An authorized pharmacist may prescribe and administer vaccines and immunizations pursuant to a statewide protocol developed pursuant to rule 657—39.6(155A) and in compliance with this rule. An authorized pharmacist may only delegate the prescribing and administration of a vaccine to an authorized pharmacist-intern under the direct supervision of an authorized pharmacist.

39.11(1) Definitions. For the purposes of this rule, the following definitions shall apply:

“ACIP” means the CDC Advisory Committee on Immunization Practices.

“ACPE” means the Accreditation Council for Pharmacy Education.

“Authorized pharmacist” means an Iowa-licensed pharmacist who has met the requirements identified in subrule 39.11(3).

“Authorized pharmacist-intern” means an Iowa-registered pharmacist-intern who has met the requirements for an authorized pharmacist identified in subrule 39.11(3).

“Board” means the Iowa board of pharmacy.

“CDC” means the United States Centers for Disease Control and Prevention.

“Immunization” shall have the same meaning as, and shall be interchangeable with, the term “vaccine.”

“Vaccine” means a specially prepared antigen administered to a person for the purpose of providing immunity.

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39.11(2) Vaccines authorized by statewide protocol. The vaccines authorized to be prescribed and administered pursuant to the statewide protocol shall include:

a. To patients ages 18 years and older:

(1) An immunization or vaccination recommended by ACIP in its approved vaccination schedule for adults.

(2) An immunization or vaccination recommended by CDC for international travel.

(3) A Tdap (tetanus, diphtheria, acellular pertussis) vaccination in a booster application.

(4) Other emergency immunizations or vaccinations in response to a public health emergency.

b. To patients ages six months and older:

(1) A vaccine or immunization for influenza.

(2) Other emergency immunizations or vaccines in response to a public health emergency.

c. To patients ages 11 years and older:

(1) The final two doses in a course of vaccinations for human papillomavirus (HPV).

(2) Reserved.

39.11(3) Authorized pharmacist training and continuing education. An authorized pharmacist shall document successful completion of the requirements in paragraph 39.11(3) "a" and shall maintain competency by completing and maintaining documentation of the continuing education requirements in paragraph 39.11(3) "b."

a. Initial qualification. An authorized pharmacist shall have successfully completed an organized course of study in a college or school of pharmacy or an ACPE-accredited continuing education program on vaccine administration that:

(1) Requires documentation by the pharmacist of current certification in the American Heart Association or the Red Cross Basic Cardiac Life Support Protocol for health care providers.

(2) Is an evidence-based course that includes study material and hands-on training and techniques for administering vaccines, requires testing with a passing score, complies with current CDC guidelines, and provides instruction and experiential training in the following content areas:

1. Standards for immunization practices;

2. Basic immunology and vaccine protection;

3. Vaccine-preventable diseases;

4. Recommended immunization schedules;

5. Vaccine storage and management;

6. Informed consent;

7. Physiology and techniques for vaccine administration;

8. Pre- and post-vaccine assessment, counseling, and identification of contraindications to the vaccine;

9. Immunization record management; and

10. Management of adverse events, including identification, appropriate response, documentation, and reporting.

b. Continuing education. During any pharmacist license renewal period, an authorized pharmacist who engages in the administration of vaccines shall complete and document at least one hour of ACPE-approved continuing education with the ACPE topic designator "06" followed by the letter "P."

c. Certification maintained. During any period within which the pharmacist may engage in the administration of vaccines, the pharmacist shall maintain current certification in the American Heart Association or the Red Cross Basic Cardiac Life Support Protocol for health care providers.

39.11(4) Assessment. An authorized pharmacist shall assess a patient for appropriateness of receiving a vaccine pursuant to the statewide protocol.

39.11(5) Verification and reporting. Prior to the prescribing and administration of an immunization pursuant to the statewide protocol, the authorized pharmacist shall consult and review the statewide immunization registry or health information network. As soon as reasonably possible following administration of a vaccine, the pharmacist shall report such administration to the patient's primary health care provider, primary physician, and a statewide immunization registry or health information

PHARMACY BOARD[657](cont'd)

network. If the patient does not have a primary health care provider, the pharmacist shall provide the patient with a written record of the vaccine administered to the patient and shall advise the patient to consult a physician.

ITEM 6. Amend **657—Chapter 39**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 135.190, 147.76, 147A.18, 155A.2, 155A.3, 155A.13, 155A.33, and 155A.44; 2018 Iowa Acts, Senate File 2322; and 2011 Iowa Acts, chapter 63, section 36, as amended by 2012 Iowa Acts, chapter 1113, section 31, and by 2013 Iowa Acts, chapter 138, section 128.

ARC 4083C**REVENUE DEPARTMENT[701]****Amended Notice of Intended Action****Proposing rule making related to water service excise tax and providing an opportunity for public comment**

The Revenue Department hereby proposes to adopt new Chapter 97, “State-Imposed Water Service Excise Tax,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 421.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2018 Iowa Acts, Senate File 512.

Purpose and Summary

Item 2 proposes to adopt new Chapter 97 within Title XIII, which establishes rules to administer the water service excise tax passed by the General Assembly in 2018. Specifically, these rules implement sections 10 through 17 of 2018 Iowa Acts, Senate File 512, which exempts certain sales of water from sales tax and enacts Iowa Code chapter 423G, which establishes a water service excise tax.

Reason for Amendment of Notice of Intended Action

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 18, 2018, as **ARC 3896C**. No public comments were received. In addition to providing for a public hearing to receive oral and written comment on Chapter 97, this Amended Notice of Intended Action proposes new Chapter 97 with revisions as described below.

The definition of “facilities” has been revised to remove the exclusion of interior plumbing, and new rule 701—97.5(87GA,SF512) has been added to more clearly define when a sale of water service for compensation occurs. Purchasers of water service make taxable sales of water service for compensation if the purchaser separately itemizes the sale of water service or provides water service for an identifiable price, including where the addition of water service increases the overall price of a sale. Water service is not sold for compensation where the sale of water service is incidental to the rental of real property.

Proposed rule 701—97.6(87GA,SF512), Apportionment of bundled water service sales—rebuttal presumption, was deleted, and the content of that rule was placed in new subrule 97.5(2).

In addition, nonsubstantive edits have been applied to other rules.

Fiscal Impact

This rule making has no fiscal impact beyond the impact estimated by the Legislative Services Agency for 2018 Iowa Acts, Senate File 512. That estimate predicts that in FY 2019, Senate File 512 will have no impact on the General Fund, will reduce Secure an Advanced Vision for Education (SAVE) revenues

REVENUE DEPARTMENT[701](cont'd)

by \$3.9 million, and will reduce local option sales tax (LOST) revenues by \$3 million. The estimate further predicts that by FY 2030, Senate File 512 will reduce General Fund revenues by \$26.1 million, will reduce SAVE revenues by \$5.2 million, and will reduce LOST revenues by \$4 million.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(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 November 13, 2018. Comments should be directed to:

Joe Fraioli
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.725.4057
Email: joe.fraioli@iowa.gov

Public Hearing

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

November 13, 2018
1 to 2 p.m.

Room 430, Fourth Floor
Hoover State Office Building
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

REVENUE DEPARTMENT[701](cont'd)

ITEM 1. Adopt the following new Title XIII:

TITLE XIII
WATER SERVICE EXCISE TAX

ITEM 2. Adopt the following new 701—Chapter 97:

CHAPTER 97
STATE-IMPOSED WATER SERVICE EXCISE TAX

701—97.1(87GA,SF512) Definitions.

97.1(1) *Incorporation of definitions.* To the extent they are consistent with 2018 Iowa Acts, Senate File 512, all words and phrases used in this chapter shall mean the same as defined in Iowa Code section 423.1 and rule 701—211.1(423).

97.1(2) *Chapter-specific definitions.* For the purposes of this chapter, unless the context otherwise requires:

“*Facilities*” means any storage tanks, water towers, wells, plants, reservoirs, aqueducts, hydrants, pumps, pipes, or any other similar devices, mechanisms, equipment, or amenities designed to hold, treat, sanitize, or deliver water.

“*State-imposed tax*” or “*tax*,” unless otherwise indicated, means the water service excise tax imposed by 2018 Iowa Acts, Senate File 512, section 13.

“*Water utility*” means the same as defined in 2018 Iowa Acts, Senate File 512, section 10. “*Corporation*” as used in Iowa Code section 476.1(3) and as incorporated by 2018 Iowa Acts, Senate File 512, section 10, includes municipal corporations. See 1968 Iowa Op. Atty. Gen. 1-21, 1968 WL 172465.

This rule is intended to implement 2018 Iowa Acts, Senate File 512, sections 12 and 13.

701—97.2(87GA,SF512) Imposition. A state-imposed tax of 6 percent is imposed upon the sales price of water service furnished by a water utility to a purchaser.

This rule is intended to implement 2018 Iowa Acts, Senate File 512, section 13.

701—97.3(87GA,SF512) Administration.

97.3(1) *Generally.* The department is charged with the administration of the tax, subject to the rules, regulations, and direction of the director. The department is required to administer the tax as nearly as possible in conjunction with the administration of the state sales tax except that portion of the Iowa Code which implements the streamlined sales and use tax agreement.

97.3(2) *Application of 701—Chapter 11.* The requirements of 701—Chapter 11 shall apply to water utilities in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

This rule is intended to implement 2018 Iowa Acts, Senate File 512, sections 10, 13, and 15.

701—97.4(87GA,SF512) Charges and fees included in the provision of water service.

97.4(1) *Sales integral to the ability to furnish water service.* The water service excise tax applies to the sale of water by piped distribution to consumers or users, including sales of accompanying services that are integral to furnishing water by piped distribution, even if the water service and accompanying services are billed separately.

97.4(2) *Examples of sales integral to the provision of water service.* Sales of services to customers or users that are considered integral to the furnishing of water by piped distribution include, but are not limited to, the following:

- a. Sales of nonitemized tangible personal property included with the sale of water service or an accompanying service that is integral to the provision of water service. See subparagraph 97.4(4) “a”(2).
- b. The sales price of water sold, regardless of whether the water is metered.

REVENUE DEPARTMENT[701](cont'd)

c. Service, account, or administrative charges or fees for water service, including but not limited to new customer account charges and minimum charges for access to water service, whether the customer uses the water service or not.

d. Fees for connection, disconnection, or reconnection to or from a water utility's facilities, including tap fees.

e. Fees for maintenance, inspection, and repairs of the water distribution system, water supplies, and facilities, including but not limited to fees for labor or materials.

f. Fees for using or checking water meters.

g. Water distribution system infrastructure and improvement fees.

97.4(3) *Examples of sales that are not water service or are not integral to the provision of water service.* Sales of services that are not integral to the furnishing of water by piped distribution include, but are not limited to, the following:

a. Residential service contracts regulated under Iowa Code chapter 523C.

b. Sales or rentals of tangible personal property, other than water, sold for a separately itemized price. See subparagraph 97.4(4) "a"(1).

c. Returned check fees.

d. Deposits, including but not limited to check and meter deposits.

e. Fees for printed bills, statements, labels, and other documents.

f. Fees for late charges and nonpayment penalties.

g. Leak detection fees.

97.4(4) *Sales generally not subject to water service excise tax.* Water utilities may make sales that may or may not be integral to the sale of water service but that are not subject to water service excise tax because those nonintegral sales are subject to sales tax under Iowa Code section 423.2 as the sale of tangible personal property or as enumerated non-water services.

a. *Sales of tangible personal property.* Whether the sale of tangible personal property that is integral to water service is subject to the water service excise tax depends on whether the tangible personal property is sold to the consumer or user for a separately itemized price.

(1) *Itemized tangible personal property.* Sales or rentals of tangible personal property by a water utility for a separately itemized price are not subject to the water service excise tax but may be subject to sales and use tax.

(2) *Nonitemized tangible personal property.* If the sale of tangible personal property is not itemized but is instead bundled with the sale of water service, including sales of services listed in subrule 97.4(2), then the entire sales price is subject to the water service excise tax.

b. *Painting of hydrants.* The painting of hydrants constitutes painting services under Iowa Code section 423.2(6) "a." Painting is subject to sales tax and is not subject to water service excise tax.

c. *Plumbing and pipefitting.* Some repairs of a water distribution system may constitute plumbing and pipefitting under Iowa Code section 423.2(6) "a." Plumbing and pipefitting services are subject to sales tax and are not subject to water service excise tax.

97.4(5) *Exemptions.* The exemptions from sales tax under Iowa Code section 423.3 also apply to sales subject to water service excise tax. For example, a water utility that purchases water service from a different water utility may be eligible to claim the sale for resale exemption pursuant to Iowa Code section 423.3(2).

This rule is intended to implement 2018 Iowa Acts, Senate File 512, sections 14 and 15.

701—97.5(87GA,SF512) When water service is furnished for compensation.

97.5(1) *Itemized sales of water service.* Water service is furnished for compensation when water service is sold for a separately itemized price.

EXAMPLE: Itemized sale of water service. Z is an entity that provides water from a well by piped distribution to various homes in the community. Each home that is connected to the well pays \$20 per month, which is used by Z for maintaining the water distribution system. Z is a water utility making sales of water service and must collect and remit water service excise tax on the \$20 monthly fee

REVENUE DEPARTMENT[701](cont'd)

charged to each of Z's members. *See In the Matter of Lakewood Utils.*, Iowa Dep't of Revenue, Docket No. 78-161-6A-RC (Feb. 8, 1980).

EXAMPLE: Sale for resale. An apartment owner purchases water from a city water utility and distributes the water to each unit through a system of pipes. The city meters the apartment owner's use of water each month and charges the apartment owner for the water service. The apartment owner separately bills each of the tenants \$40 per month for water service, including the cost of water and maintenance on the water distribution system. The apartment owner is a water utility and must collect and remit water service excise tax on the \$40 monthly charge for water service. The apartment owner may purchase the water from the city tax exempt as a sale for resale.

97.5(2) *Water service sold for an identifiable price.* Water service is furnished for compensation when the price of the water service is identifiable from an invoice, bill, catalogue, price list, rate card, receipt, agreement, or other similar document, including where the total sales price increases when water service is included in the sale.

EXAMPLE: Cost varies with inclusion of water service. A campground provides three campsite packages to its customers:

Package A includes only campsite access for \$10 per night.

Package B includes campsite access and an electrical hookup for \$20 per night.

Package C includes campsite access, an electrical hookup, and water service for \$30 per night.

Sales of package C by the campground include sales of water service. The campground must collect and remit water service excise tax on \$10—the identifiable sales price of water service.

97.5(3) *Water service not furnished for compensation; incidental sales.* No sale of water service for compensation occurs where water service is not sold for a separately itemized or identifiable price and is incidental to the rental of real property.

EXAMPLE: Water service sold with real estate rental for one nonitemized price. A manufactured housing community (MHC) owner owns a well and pipes water to the lots. The MHC owner charges tenants \$500 per month for each lot rental. Water from the well is included in the \$500 rental charge. The MHC owner does not do any of the following: charge a flat water fee, charge tenants based on their actual water used, or offer comparable lots at a lower price that do not have access to water service. The MHC owner is not required to collect or remit water service excise tax because water is not being furnished for compensation; it is incidental to the rental of real property.

EXAMPLE: Water service sold with real estate rental for one nonitemized price. A manufactured housing community (MHC) purchases water from a city water utility and distributes the water to each lot in the community through a system of pipes. The city meters the MHC's use of water each month and charges the MHC for the water service and the applicable water service excise tax. The MHC charges its tenants \$500 for lot rental. As in the previous example, the MHC owner does not do any of the following: charge a flat water fee, charge tenants based on their actual water used, or offer comparable lots at a lower price that do not have access to water service. The MHC owner is not required to collect or remit water service excise tax because water is not being furnished for compensation; it is incidental to the rental of real property.

This rule is intended to implement 2018 Iowa Acts, Senate File 512, section 13.

701—97.6(87GA,SF512) Itemization of tax required. A water utility shall add the tax to the sales price of the water service, and the tax, when collected, shall be stated as a distinct item on any bill, receipt, agreement, or other similar document. The tax shall be identified as the water service excise tax, and the amount of tax paid shall be displayed clearly on the bill, receipt, agreement, or other similar document provided to the purchaser. This rule shall take effect on January 1, 2019.

This rule is intended to implement 2018 Iowa Acts, Senate File 512, section 13.

701—97.7(87GA,SF512) Date of billing—effective date and repeal date. For purposes of determining whether sales tax or water service excise tax applies to billings which span across the 2018 Iowa Acts,

REVENUE DEPARTMENT[701](cont'd)

Senate File 512, effective date of July 1, 2018, and the future repeal date as described in 2018 Iowa Acts, Senate File 512, section 17, the provisions of 701—subrule 14.3(9) shall apply.

This rule is intended to implement 2018 Iowa Acts, Senate File 512, section 15.

701—97.8(87GA,SF512) Filing returns; payment of tax; penalty and interest.

97.8(1) *Application of 701—Chapter 12.* The requirements of 701—Chapter 12 shall apply to water utilities in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

97.8(2) *Frequency of deposit filing based on combined water service excise tax and sales tax.* With respect to the tax thresholds used for determining whether a retailer must remit sales tax semimonthly, monthly, quarterly, or annually, as described in rule 701—12.13(422), the threshold for determining how frequently a water utility must remit the water service excise tax shall be based on the sum of the total amount of sales tax collected and the total amount of water service excise tax collected.

EXAMPLE: Prior to the imposition of the water service excise tax, a water utility collected \$70,000 in sales tax per year. Pursuant to 701—subrule 12.13(2), the water utility filed its sales tax deposits with the department on a semimonthly basis. Following the imposition of the water service excise tax, the water utility now collects \$35,000 in sales tax per year and \$35,000 in water service excise tax per year. The combined sum of the water utility’s monthly collected sales tax and water service excise tax is \$70,000. Therefore, the water utility will continue to make semimonthly deposits.

This rule is intended to implement 2018 Iowa Acts, Senate File 512, section 15.

701—97.9(87GA,SF512) Permits.

97.9(1) *Application of 701—Chapter 13.* The requirements of 701—Chapter 13 shall apply to water utilities in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

97.9(2) *Separate water service excise tax permit required.* All water utilities must register for a water service excise tax permit, and the water service excise tax shall be remitted under that permit. Water utilities that make water service sales subject to water service excise tax and other sales subject to sales tax shall obtain a water service excise tax permit in addition to their current sales tax permit and shall remit all sales tax under the sales tax permit and all water service excise tax under the water service excise tax permit.

This rule is intended to implement 2018 Iowa Acts, Senate File 512, section 15.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions Katie Averill, Superintendent of Banking Ronald L. Hansen, and Auditor of State Mary Mosiman has established today the following rates of interest for public obligations and special assessments. The usury rate for October is 5.00%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants	Maximum 6.0%
74A.4 Special Assessments	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Financial Institutions as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

TREASURER OF STATE[781](cont'd)

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective October 9, 2018, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .35%
32-89 days	Minimum .35%
90-179 days	Minimum .45%
180-364 days	Minimum .50%
One year to 397 days	Minimum .80%
More than 397 days	Minimum 1.00%

These are minimum rates only. All time deposits are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

USURY

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

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

ARC 4085C

PHARMACY BOARD[657]

Adopted and Filed Emergency

Rule making related to temporary scheduling of cannabidiol prescription drug products

The Pharmacy Board hereby amends Chapter 10, “Controlled Substances,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 124.201 and 124.201A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 124.201A.

Purpose and Summary

This rule making temporarily places into Schedule V of the Iowa Uniform Controlled Substances Act any drugs approved by the U.S. Food and Drug Administration (FDA) which contain cannabidiol (CBD) derived from cannabis and no more than 0.1 percent tetrahydrocannabinols (THC).

*Reason for Adoption of Rule Making Without
Prior Notice and Opportunity for Public Participation*

Pursuant to Iowa Code section 17A.4(3), the Board finds that notice and public participation are unnecessary or impractical because statute so provides. Iowa Code section 124.201A authorizes the Board to adopt rules on an emergency basis to temporarily revise the Controlled Substances Act to designate as controlled substances in the appropriate schedule FDA-approved cannabidiol prescription drug products that are designated by the federal Drug Enforcement Administration as controlled substances with such rules to be effective immediately upon filing.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(a), the Board also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on October 3, 2018, because, as described above, Iowa Code section 124.201A authorizes the Board to adopt rules on an emergency basis to temporarily revise the Controlled Substances Act. On September 28, 2018, a final order was published in the federal register placing “FDA-approved drugs that contain CBD derived from cannabis and no more than 0.1 percent tetrahydrocannabinols in schedule V” of the Controlled Substances Act.

Adoption of Rule Making

This rule making was adopted by the Board on July 24, 2018.

Concurrent Publication of Notice of Intended Action

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as **ARC 4086C** to allow for public comment.

Fiscal Impact

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

PHARMACY BOARD[657](cont'd)

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making became effective on October 3, 2018.

The following rule-making action is adopted:

Adopt the following **new** subrule 10.39(4):

10.39(4) Amend Iowa Code section 124.212 by adding the following new subsection “6”:

6. *Approved cannabidiol drugs.* A drug product in finished dosage formulation that has been approved by the U.S. Food and Drug Administration that contains cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from cannabis and no more than 0.1 percent (w/w) residual tetrahydrocannabinols.

[Filed Emergency 10/3/18, effective 10/3/18]

[Published 10/24/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/24/18.

ARC 4097C**ADMINISTRATIVE SERVICES DEPARTMENT[11]****Adopted and Filed****Rule making related to targeted small businesses**

The Department of Administrative Services hereby amends Chapter 117, "Procurement of Goods and Services of General Use," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 8A.111 and 2017 Iowa Acts, chapter 160 (House File 621).

Purpose and Summary

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

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 29, 2018, as **ARC 3966C**. A public hearing was held on September 18, 2018, at 10 a.m. in Conference Room 4, A Level, Hoover State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on October 3, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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

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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 November 28, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule **11—117.2(8A)**, definition of “Targeted small business (TSB),” as follows:
“Targeted small business (TSB)” means a targeted small business as defined in Iowa Code section 15.102 that is certified by the ~~department of inspections and appeals~~ economic development authority pursuant to Iowa Code section ~~40A.104~~ 15.108 and as authorized by Iowa Code chapter 73.

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

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

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

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

[Filed 10/3/18, effective 11/28/18]

[Published 10/24/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/24/18.

ARC 4098C

CHIEF INFORMATION OFFICER, OFFICE OF THE[129]

Adopted and Filed

Rule making related to the broadband grants program

The Office of the Chief Information Officer (OCIO) hereby adopts new Chapter 22, “Broadband Grants Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 8B.4(5) and 8B.11(8).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 8B.11.

Purpose and Summary

New Chapter 22 applies to the Broadband Grants Program established by Iowa Code section 8B.11 and administered by OCIO. As authorized by Iowa Code section 8B.11(8), this chapter establishes program process, management, and measurement rules designed to ensure the effective and efficient administration and oversight of the Broadband Grants Program, the key objective of which is to reduce or eliminate underserved areas (statutorily referred to as targeted service areas) in Iowa by incentivizing the installation of broadband infrastructure by communications service providers therein.

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Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 11, 2018, as **ARC 3728C**. The Iowa Communications Alliance (ICA) submitted several written comments related to the Notice. OCIO has responded to each comment and summarized all changes or reasoning for either adopting or not adopting ICA's proposed changes in this Adopted and Filed rule making.

First, ICA recommended that OCIO require certain information be included in the draft Notice of Funding Availability (NOFA). OCIO agrees that a detailed NOFA is critical to ensuring a successful program. Accordingly, OCIO has made the previously permissive language in subrule 22.3(2) mandatory. This change also addresses ICA's request that the NOFA clearly describe the specific scoring criteria pursuant to which and the method by which evaluations will be conducted, because paragraph 22.3(2)"e" will now require that the NOFA set forth the measurement, technical, scoring, or other similar standards, formulas, or criteria the office will utilize in determining whether, to which communications service providers, and in what amount(s) to award grant funds. Relatedly, OCIO incorporated several of ICA's recommendations relating to matters that should be included in and addressed by the NOFA. Specifically, the NOFA will, in addition to the elements previously listed in subrule 22.3(2), provide an estimate of the date by which OCIO anticipates it will issue award(s), identify allowable and not disallowed expenditures, and set forth what constitutes sufficient and appropriate documentation for purposes of substantiating subsequent requests for reimbursement for allowable and not disallowed expenditures.

Second, ICA recommended that subrule 22.5(1) be revised to afford a period for public comment, not only in OCIO's discretion, but also upon a timely submitted request by an applicant or member of the public. The OCIO fully anticipates making grant applications available for public comment as part of the review process; however, for administrative reasons, OCIO has elected to reserve the right to decide this issue unilaterally. For example, as part of the process to afford applicants an opportunity to seek confidential treatment of portions of their applications, applicants will be required to submit both an unredacted and a redacted version of their applications. To protect and preserve confidentiality, OCIO will post the redacted versions online for purposes of the public comment process. If applicants fail to comply with this redaction requirement, it would be administratively burdensome for OCIO to, itself, redact purportedly confidential portions of applications. Accordingly, OCIO will make grant applications available for public comment, but cannot commit itself to redacting upon request, in that doing so may not ultimately be administratively feasible.

Third, ICA recommended that "local match," as referenced in subparagraph 22.5(3)"a"(5), be defined to include any "private and public sources of funding available to the applicant and to be utilized in connection with the applicant's proposed project." OCIO agrees with this definition and has updated the subparagraph accordingly. In addition, ICA requested that OCIO give preference to projects that leverage federal funds. OCIO believes the definition of "local match" proposed by ICA and now adopted by OCIO encompasses federal funds and thereby encompasses ICA's suggestion. In addition, or in the alternative, subparagraph 22.5(3)"a"(6) permits OCIO to consider "other factors deemed relevant by the office as stated in the NOFA." In finalizing the NOFA, OCIO will further consider ICA's recommendation pursuant to this provision.

Fourth, ICA recommended that subrule 22.5(4) be revised to either provide notice to unsuccessful applicants that they have not been issued an award either by directly notifying them or by providing a specific date that the application results would be posted. The OCIO has updated subrule 22.3(2) to require that OCIO "provide an estimate of the date by which the office anticipates it will issue award(s)." Accordingly, the NOFA will include an estimated issuance date. If OCIO later determines it cannot meet that estimated date, OCIO will post an amendment to the NOFA identifying an updated estimated award date and thereby provide updated notice to communications service providers consistent with ICA's request.

Fifth, ICA recommended paragraph 22.6(3)"c," related to field testing, be revised to (1) place a one-year time limit on OCIO's ability to conduct field tests following project completion, (2) eliminate

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OCIO's ability to conduct field tests before reimbursing a provider for allowed expenditures, and (3) more specifically define where and the manner in which OCIO may conduct field tests. OCIO addresses each of these points as follows:

- With respect to point (1), OCIO understands that communications service providers may have concerns about being subject to audit indefinitely. However, one year is not a sufficient time period to ensure that broadband infrastructure deployed utilizing state funds meets the program requirements and goals for a meaningful period of time. For example, a communications service provider could seek and obtain reimbursement for broadband infrastructure that facilitates 25 megabits per second of download speed and 3 megabits per second of upload speed (25/3 Broadband) in a targeted service area identified in the provider's application, wait the proposed one-year period, and then redeploy the infrastructure elsewhere. OCIO believes a five-year window would be a more appropriate time period and strikes a fairer balance between the state's interest in ensuring that state funds are utilized for their intended purpose and the communications service providers' interest in not being indefinitely committed to audit or scrutiny.

- With respect to point (2), OCIO understands ICA's concern that the language drafted in OCIO's Notice of Intended Action was unclear as to whether OCIO would possess the discretion to withhold grant funds following project completion unless and until such time as OCIO audited the completed project to verify compliance with the requirements of Iowa Code chapter 8B, these rules, the NOFA, and the grant agreement executed between the parties, irrespective of how long OCIO waited to exercise such audit rights. OCIO agrees that it should and will conduct any field audits that serve as a precondition to any reimbursement within a reasonable time, not to exceed one year, to more fairly balance the state's interest in ensuring that state funds are utilized for their intended purpose and the communications service providers' interest in being reimbursed for allowable expenditures within a reasonable time.

- With respect to point (3), OCIO has, in part, adopted language proposed by ICA to more specifically define where and in what manner OCIO may conduct such field tests and to distinguish between circumstances where broadband infrastructure is actually serving customers versus merely being in place to serve upon request by prospective customers. With respect to the latter scenario, OCIO has modified ICA's proposed language to ensure that any engineer utilized to certify that a project meets the applicable requirements is an independent third party and is properly licensed. These additions are necessary to ensure both the objectivity and credibility of the results. In addition, the costs of such audit shall be borne by the grantee.

Sixth, ICA recommended that the rules be updated to more clearly define a grantee's obligation in terms of timely completing a project for which grant funds have been utilized. OCIO agrees that providing more clarity on this point would aid applicants in understanding the expectations in advance. Accordingly, OCIO has added paragraph 22.4(2)"e" to require that applicants identify an anticipated project completion date as part of their applications, which date shall not exceed five years from the date the NOFA is issued. The anticipated project completion date will serve as the basis for determining timely project completion.

Seventh, ICA recommended that rule 129—22.7(8B) be revised to disallow grant funds previously committed to specific grantees that were not ultimately distributed or that were otherwise repaid to OCIO from being reverted by OCIO to the General Fund. OCIO believes ICA misunderstood the intent of this rule, which is to ensure compliance with Iowa Code section 8B.11(2)"c." That said, OCIO has updated this rule to clarify its intent, namely: if funds previously committed to specific grantees are not ultimately distributed or are recouped prior to the two-year reversion period established by Iowa Code section 8B.11(2)"c," OCIO will either award the grant funds to prior grantees or open additional application rounds.

Eighth, ICA recommended that OCIO clarify the type or format of mapping data which communications service providers must provide OCIO as part of the grant administration process. OCIO was intentionally vague about the specific type and format to ensure that communications service providers have a degree of flexibility in supplying this information to OCIO in a manner that is not administratively inconvenient or overly costly to them. OCIO has updated subrule 22.6(2) to more clearly reflect OCIO's willingness to work with communications service providers in identifying a

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type or format that works for both parties. If ICA seeks further clarification or specificity on behalf of its members, OCIO is willing to be more specific in the NOFA to the extent interested parties can identify preferred or disfavored data or format types. Additionally, per ICA's request, OCIO has updated this rule to clarify that OCIO requires mapping data as it relates to all infrastructure installed by communications service providers and supported, in whole or in part, by state funds, regardless of whether such infrastructure actually serves any customers in targeted service area(s) forming a basis of the application at the time such mapping data is supplied to OCIO.

Ninth, ICA recommended that OCIO modify subrule 22.4(4) to permit the redaction of confidential information submitted to OCIO, including as part of the application process. OCIO believes this rule already permitted as much "in narrowly defined circumstances as stated in the NOFA." However, for the avoidance of doubt, OCIO replaced this provision with the specific process OCIO will deploy in the NOFA. Notably, this is the same process OCIO utilized in administering the broadband map appeals process under 129—Chapter 20. See 129—subrule 20.5(7).

Tenth, ICA recommended that OCIO give preference to applications for the installation of broadband infrastructure at or above 100 megabits per second of download speed and 10 megabits per second of upload speed in targeted service areas. While OCIO appreciates both this suggestion and information supplied by ICA as outlining the evolution and development of standards at both the federal level and in other states, OCIO is cognizant of the definition of a targeted service area in Iowa Code section 8B.1(12), which establishes the standard for Iowa: 25/3 Broadband. As a result of this declaration of legislative intent, OCIO believes the legislature, rather than the executive branch, would be the appropriate branch of government to consider raising Iowa's standard.

Eleventh, ICA recommended that OCIO require applicants to demonstrate financial capability as part of the application process. Subrule 22.4(2) generally establishes the minimum requirements to be included in an application, and OCIO may introduce additional requirements in the NOFA. Accordingly, while OCIO will continue to consider ICA's request as part of the process of finalizing the NOFA, OCIO is of the opinion that considering financial capability in a manner that would disqualify applicants would unduly disadvantage newer market entrants. Thus, to the extent OCIO does elect to elicit such information, OCIO will consider such information in a manner that is not disqualifying per se, for example, as a risk factor in prioritizing verification/audit tasks.

Finally, ICA recommended that subrule 22.4(5) be revised to clarify the scope of and impose more stringent limitations on the limited exception for broadband infrastructure installed outside of a targeted service area(s). Specifically, ICA recommended OCIO (1) clarify whether the exception is available for broadband infrastructure installed in any census block that is not a targeted service area or whether the exception is limited to broadband infrastructure installed in a census block that is adjacent to a targeted service area; and (2) limit the amount of grant funds awarded that could be utilized pursuant to the exception.

- With respect to (1), OCIO has added language clarifying that the exception is intended to be available to broadband infrastructure installed in any census block that is not a targeted service area. The underlying purpose of this exception is to ensure that the rules do not unduly favor certain types of technologies or providers. Iowa Code section 8B.11(3) permits "[c]ommunications service providers [to] apply to the office for a grant pursuant to this section for the installation of broadband infrastructure that facilitates broadband service at or above [25/3 Broadband]." Likewise, the definition of "broadband" under Iowa Code section 8B.1(1) expressly includes "fixed wireless and mobile wireless mediums," evincing a legislative intent to make the program meaningfully available to and designed to incentivize a wide variety of applicants and technology solutions. As a general matter, OCIO is of the opinion that it is less administratively burdensome to administer the program with respect to broadband infrastructure installed in targeted service areas; however, establishing a bright-line rule that limits the program in that manner unduly disadvantages wireless and mobile technologies, which are more likely to be deployed in census blocks that are not targeted service areas but which nevertheless provide service into targeted service areas. The exception strikes a fair balance between efficiently and effectively administering the program and effectuating the underlying legislative intent of remaining technology and provider neutral.

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- With respect to (2), subrule 22.4(5) requires providers to identify how they would proportionally allocate the costs of and for broadband infrastructure installed outside of targeted service areas but which facilitates 25/3 Broadband within targeted service areas underlying the application, and numbered paragraph 22.6(3)“a”(1)“2” only permits providers to recoup those proportional expenditures (i.e., the amount of funds actually attributable to broadband delivery within targeted service areas).

Adoption of Rule Making

This rule making was adopted by OCIO on October 1, 2018.

Fiscal Impact

OCIO will use the existing budget and resources to implement these rules, including any specific appropriations made during the 2018 Legislative Session for such purpose.

Jobs Impact

Deployment of grant funds should lead to the deployment of additional broadband projects by communications service providers and therefore increased job opportunities across the state.

Waivers

These rules establish general processes and procedures applicable to the posting of opportunities related to and applications for grant funds. Specific requirements, however, will be more fully articulated in the Notice of Funding Availability, as stated in these rules. Waivers will be handled in accordance with the terms of the Notice of Funding Availability—similar to the manner in which waivers for requests for proposals in the procurement context are handled.

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 November 28, 2018.

The following rule-making action is adopted:

Adopt the following **new** 129—Chapter 22:

CHAPTER 22 BROADBAND GRANTS PROGRAM

129—22.1(8B) Definitions. The definitions in rule 129—20.1(8B,427) shall apply to this chapter. In addition, for purposes of this chapter, the following definitions shall also apply:

“*Grantee*” means a communications service provider awarded grant funds by the office pursuant to and in accordance with Iowa Code section 8B.11 and these rules.

“*Project*” means an installation of broadband infrastructure by a communications service provider in one or more targeted service areas. Except in limited circumstances otherwise permitted herein, a project may not be comprised of, in whole or in part, census blocks that are not targeted service areas.

129—22.2(8B) Purpose and scope. This chapter applies to the broadband grants program established by Iowa Code section 8B.11 and administered by the office. As authorized by Iowa Code section 8B.11(8),

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this chapter establishes program process, management, and measurement rules designed to ensure the effective and efficient administration and oversight of the program, the key objective of which is to reduce or eliminate targeted service areas in the state of Iowa by incentivizing the installation of broadband infrastructure by communications service providers therein.

129—22.3(8B) Notice accepting grant funds.

22.3(1) The office shall provide notice to communications service providers when grant funds become available for distribution by the office by posting a “Notice of Funding Availability” (NOFA) online at iowagrants.gov and ocio.iowa.gov/broadband.

22.3(2) Such NOFA shall:

- a. Generally describe the application process.
- b. State the date, time, and manner by which applications for such grant funds must be submitted to the office in order to be eligible for consideration by the office for an award of grant funds.
- c. State the total amount of grant funds available for distribution under the applicable NOFA and provide an estimate of the date by which the office anticipates it will issue award(s).
- d. Describe the factors the office will consider in determining whether, to which communications service providers, and in what amount(s) to award grant funds.
- e. Set forth any measurement; technical, scoring, or other similar standards; formulas; or criteria the office will utilize in applying any factors considered by the office in determining whether, to which communications service providers, and in what amount(s) to award grant funds.
- f. Identify allowable and not disallowed expenditures which may be included in an applicant’s total project costs and set forth what constitutes sufficient and appropriate documentation for purposes of substantiating subsequent requests for reimbursement for allowable and not disallowed expenditures.
- g. State any other terms, conditions, requirements, or processes applicable to communications service providers submitting applications for grant funds, including but not limited to any grant agreement the office may require a grantee to enter into as a condition of receiving grant funds pursuant to subrule 22.6(1).

129—22.4(8B) Applications for grant funds.

22.4(1) *Application process.* Following the issuance of a NOFA by the office, communications service providers may apply to the office for grant funds for the installation of broadband infrastructure at or above 25 megabits per second of download speed and 3 megabits per second of upload speed in targeted service areas. Applications shall be made and submitted in accordance with the terms of the NOFA.

22.4(2) *Contents of application.* In addition to any other questions or requirements established by the NOFA, an application shall, at a minimum, include:

- a. The communications service provider’s legal and business name and address;
- b. The name, address, telephone number, and email address of the person authorized by the communications service provider to respond to inquiries regarding the application;
- c. The census block number(s) as provided on the statewide map referenced in rule 129—20.4(8B,427) for the targeted service area(s) forming the basis of the application/project (i.e., the targeted service area(s) in which the proposed installation of broadband infrastructure will occur);
- d. Attestation that the broadband infrastructure installed in the targeted service area(s) will facilitate broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed;
- e. An anticipated project completion date, which shall not exceed five years from the date the NOFA is issued. An applicant’s anticipated project completion date shall be used to determine whether a grantee’s failure to complete a project in a timely manner warrants a finding of noncompliance for purposes of subparagraph 22.6(4)“b”(2).

22.4(3) *Deadlines.* The office will only consider applications received on or before the applicable deadline as stated in the NOFA, unless the office, in its sole discretion, establishes a different deadline

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for the submission of applications. The office may establish a different deadline for all applicants, but will not change the deadline for or at the request of any individual applicant.

22.4(4) Confidentiality of contents of applications. The office's release of public records is governed by 129—Chapter 2 and Iowa Code chapter 22. Applicants or other persons or parties submitting information to the office are encouraged to familiarize themselves with 129—Chapter 2 and Iowa Code chapter 22 before submitting applications or other information to the office. The office will copy and produce public records upon request as required to comply with Iowa Code chapter 22 and will treat all information submitted by applicants or other persons or parties as public, nonconfidential records unless an applicant or other person or party requests that specific parts of the evidence or information submitted be treated as confidential at the time of the submission to the office.

a. In addition to any other administrative requirements established by the NOFA, an applicant or other person or party requesting confidential treatment of portions of an application or other information submitted to the office must:

- (1) Fully complete and submit to the office Form 22 as provided by the office.
- (2) Identify the request in the NOFA, or if other information is submitted to the office, identify the request in the transmittal email or cover letter for the written correspondence.
- (3) Conspicuously mark the outside of any submission as containing confidential information.
- (4) Mark each page upon which confidential evidence or information appears.
- (5) Submit a public copy from which claimed confidential evidence and information has been excised. Confidential information must be excised in such a way as to allow the public to determine the general nature of the information removed and to retain as much of the otherwise public evidence and information as possible.

b. Form 22 will not be considered fully complete unless, for each request for confidential treatment, the applicant or other person or party:

- (1) Enumerates the specific grounds in Iowa Code chapter 22 or other applicable law that support treatment of the specific information as confidential.
- (2) Justifies why the specific information should be maintained in confidence.
- (3) Explains why disclosure of the specific information would not be in the best interest of the public.
- (4) Sets forth the name, address, telephone number, and email address of the individual authorized by the applicant or other person or party submitting such information to respond to inquiries from the office concerning the confidential status of such information.

c. Failure to request that information be treated as confidential as specified herein shall relieve the office and state personnel from any responsibility for maintaining the information in confidence. Applicants or other persons or parties may not request confidential treatment with respect to information specifically identified by the office in the NOFA as being subject to public disclosure. Blanket requests to maintain an entire application or all information otherwise submitted to the office as confidential will be categorically rejected.

22.4(5) Limited exception for broadband infrastructure installed outside of targeted service areas. These rules generally limit the use of grant funds to and for broadband infrastructure installed within targeted service areas. This limitation is designed to ensure that the use of grant funds has the greatest possible impact on eliminating targeted service areas and to ensure the office's effective, efficient, and responsible management and oversight of the program. Notwithstanding this limitation, the office may, on a limited basis and in the office's sole discretion, permit communications service providers to apply for and utilize grant funds for broadband infrastructure installed outside of targeted service areas that facilitates or is essential to and inextricably intertwined with facilitating broadband infrastructure within targeted service areas forming the basis of a project, provided that a communications service provider applying for any such exception shall be required to clearly demonstrate, to the office's sole satisfaction:

a. Why and how reimbursement for such broadband infrastructure deployed outside of a targeted service area(s) facilitates or is essential to and inextricably intertwined with facilitating broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed in

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a targeted service area(s) forming the basis of a project and cannot otherwise be excluded from the application; and

b. The specific methods or formulas the communications service provider will utilize in proportionally allocating the costs of and for such broadband infrastructure to targeted service area(s) forming the basis of the project to which broadband service is facilitated by such infrastructure.

129—22.5(8B) Application review process and award of grant funds.

22.5(1) *Optional period for public comment.* Following the expiration of the deadline for the receipt of applications stated in the NOFA, the office may, in its sole discretion, open a period for public comment as it relates to such applications through the state of Iowa's public comment website: comment.iowa.gov. If the office elects to solicit public comment pursuant to this rule, any member of the public will be permitted to submit comments regarding applications received by the office.

22.5(2) *Review committee.* Following the expiration of the deadline for the receipt of applications stated in the NOFA, the office will supply all applications received by the deadline and otherwise warranting review in accordance with the terms, conditions, and requirements of the NOFA, these rules, and Iowa Code chapter 8B to a review committee established by the office comprised of representatives selected by the office from schools, communities, agriculture, industry, and other areas. The review committee will review the applications and provide input/make recommendations to the office regarding whether, to which projects, and in what amount(s) to award grant funds, in accordance with the terms, conditions, and requirements of the NOFA, these rules, and Iowa Code chapter 8B.

22.5(3) *Office final decision.* Following the office's receipt of the review committee's input or recommendations and the closure of the period for public comment, if any, the office will review all applications received by the deadline and otherwise warranting review in accordance with the terms, conditions, and requirements of the NOFA, these rules, and Iowa Code chapter 8B, the input/recommendations made by the review committee, and any public comment solicited/received, all in accordance with the terms, conditions, and requirements of the NOFA, these rules, and Iowa Code chapter 8B, and make a final agency decision regarding whether, to which projects, and in what amount(s) to award grant funds.

a. In so doing, the office will take into consideration the following factors, in accordance with and in the manner specified by the terms, conditions, and requirements of the NOFA:

(1) The relative need for broadband infrastructure in the area and the existing broadband service speeds. Existing broadband service speeds may be determined by reference to the statewide map referenced in rule 129—20.4(8B,427).

(2) The percentage of the homes, schools, and businesses in the targeted service area(s) forming the basis of the project that will be provided access to broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed as a result of the project.

(3) The geographic diversity of the project areas of all applicants.

(4) The economic impact the project will have on the area.

(5) The applicant's total proposed budget for the project, including the amount or percentage of local match, if any. For purposes of this chapter, "local match" shall include any private and public sources of funding available to the applicant and to be utilized in connection with the applicant's proposed project.

(6) Any other factors deemed relevant by the office as stated in the NOFA.

b. In determining whether, to which projects, and in what amount(s) to award grant funds, the office will not:

(1) Base its decision on the office's prior knowledge of any applicant except for the information provided in the application; or

(2) Make an award that exceeds 15 percent of any communications service provider's total estimated allowable project costs for a proposed installation of broadband infrastructure.

22.5(4) *Notice to applicants of decision and right to appeal.* The office shall notify each communications service provider awarded a grant by the office of the office's decision(s) in accordance with the terms and conditions of the NOFA. The office will also post such decision(s) online at

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iowagrants.gov and ocio.iowa.gov/broadband. Unsuccessful applicants are solely responsible for reviewing such websites to determine their award status. Such agency decision(s) shall become final unless, within ten days of such email transmission or posting, an applicant which was adversely affected by a decision of the office files a request for a contested case proceeding pursuant to 129—Chapter 6. Failure to challenge the office's decision under this rule by filing a request for a contested case within the ten-day period shall waive any claims an applicant may have related to the office's administration of the process and otherwise be deemed a failure to exhaust administrative remedies.

129—22.6(8B) Administration of award.

22.6(1) *Grant agreement required.* The office may require a grantee to enter into a grant agreement with the office in accordance with the terms, conditions, and requirements of the NOFA. Such grant agreement may include, but not be limited to, the total amount of the grant funds awarded to the grantee; a description of the project to be completed by the grantee and specifications related thereto; a description of allowable expenditures; conditions related to the disbursement of grant funds; default and termination procedures; performance, certification, and verification requirements/criteria necessary to confirm project success/completion; and repayment requirements in the event the grantee does not fulfill its obligations under the agreement, these rules, or Iowa Code chapter 8B. In addition to any terms, conditions, or requirements specifically set forth in such agreement, any and all requirements established by Iowa Code chapter 8B, these rules, other applicable law, rule, or regulation, or the NOFA shall be deemed incorporated by reference into such grant agreement as if fully set forth therein.

22.6(2) *Mapping data required.* Upon project completion, a grantee must supply the office with geographic information system (GIS) data in a form mutually acceptable to both the office and grantee demonstrating specifically where broadband infrastructure for which grant funds have been utilized, in whole or in part, has been installed, regardless of whether such infrastructure actually serves any customers in targeted service area(s) forming a basis of the application at the time such mapping data is supplied to the office. Such GIS data must enable the office to determine which specific homes, schools, and businesses within each targeted service area forming the basis of the project have access to broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed as a result of the project.

22.6(3) *Reimbursements, record keeping/audits, performance/certification, and repayment.* In the absence of more specific provisions in an agreement executed between a grantee and the office in accordance with these rules establishing conflicting or inconsistent terms and conditions, the following terms and conditions shall apply by default to any award of grant funds made by the office under Iowa Code section 8B.11 and these rules:

a. Reimbursement.

(1) General. A grantee shall only be reimbursed by the office for:

1. Allowable and not disallowed expenditures actually and previously incurred by the grantee. What constitutes allowable or disallowable expenditures shall be further specified in the NOFA or grant agreement;

2. Expenditures for broadband infrastructure installed in targeted service areas; or, in the limited circumstances permitted herein, to the extent any expenditures relate to broadband infrastructure installed outside of targeted service areas but which facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed within targeted service areas underlying the application, only for the proportionate amount that such broadband infrastructure facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed within targeted service areas; and

3. Expenditures for which the grantee is able to supply sufficient and appropriate documentation. What constitutes sufficient or appropriate documentation shall be further specified in the NOFA or grant agreement.

(2) Timing. Requests for reimbursement may be submitted to the office in accordance with the terms and conditions in the NOFA or grant agreement.

CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

b. Performance/certification. After the completion of a project utilizing, in whole or in part, grant funds, a grantee must:

(1) Certify to the office that the project was completed as proposed in the original application, including but not limited to that the final installation was installed in or otherwise facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed in each of the applicable targeted service areas identified in the original application, and identify the total number of homes, schools, and businesses actually receiving broadband service in each targeted service areas identified in the original application as a result of the project.

(2) Attest that any claimed, allowable expenditures are true and accurate, were directly related to the installation of broadband infrastructure that facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed in eligible targeted service areas forming the basis of the project, and were properly allocated in accordance with the terms, conditions, and requirements of the NOFA or grant agreement.

(3) Supply the office with updated GIS data in accordance with subrule 22.6(2).

c. Field testing. The office may, in its discretion, conduct field tests, on one or multiple occasions, for compliance with the requirements of Iowa Code sections 8B.1 and 8B.11, these rules, and any grant agreement entered into between a grantee and the office pursuant to subrule 22.6(1) for up to five years after broadband service is certified as complete in accordance with paragraph 22.6(3) "b." The office may exercise this right both before and after reimbursing a grantee for any claimed, allowable expenditures, but if the office elects to do so before reimbursing a grantee for any claimed, allowable expenditures, it will do so within a reasonable time, not to exceed one year, after broadband service is certified as complete in accordance with paragraph 22.6(3) "b." Such field tests may include but not be limited to:

(1) Speed tests anywhere between a grantee's central office and the demarcation at any customer's location in a targeted service area or census block in which the project was to be deployed;

(2) In the case of wireless installations, from any location in a targeted service area or census block in which the project was to be deployed; or

(3) In the case where a grantee does not have a customer in a targeted service area being served by the installation, certification obtained by the grantee and supplied to the office from an independent third party who is a properly licensed engineer that the installation facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed in applicable targeted service areas identified in the original application. The costs of such certification shall be borne by the grantee.

d. Disbursement/repayments.

(1) A grantee shall not be entitled to the applicable portion of any grant funds or shall be obligated to repay the office the applicable portion of any grant funds previously distributed by the office to the grantee if the office determines that:

1. Claimed expenditures or a prior reimbursement, in whole or in part, was comprised of expenditures that were not allowable or were disallowed, were improperly or incorrectly allocated, or were not supported by sufficient and appropriate documentation;

2. Claimed expenditures or the total amount previously reimbursed by the office exceeds 15 percent of the grantee's estimated or final total allowable project costs, whichever is less.

(2) A grantee shall not be entitled to any grant funds or shall be obligated to repay the office the entire amount of any grant funds previously distributed by the office to the grantee if the office determines that:

1. Claimed expenditures or a prior reimbursement, in whole or in part, was used for the installation of broadband infrastructure that was not in or does not facilitate broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed in a targeted service area identified in the original application;

2. A grantee fails to complete the project as proposed in the original application; or

3. Any representation or warranty made by a grantee in an application for grant funds, a grant agreement entered into between a grantee and the office pursuant to subrule 22.6(1), or in any other

CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

representation or statement made by the grantee to the office proves untrue in any material respect as of the date of the issuance or making thereof.

e. Notice of default. If the office determines a grantee is not entitled to or is otherwise required to repay the office in accordance with paragraph 22.6(3) “d,” the office may issue the grantee a “Notice of Default,” which shall afford the grantee 30 days to cure the default. Whether a grantee has sufficiently cured the default shall be determined in the sole discretion of the office. If a grantee fails to cure the default within 30 days, the office may issue an order requiring the grantee to reimburse the office for the amount specified in the “Notice of Default.”

22.6(4) Remedies for noncompliance. In addition to issuing a “Notice of Default” and subsequent order requiring the grantee to reimburse the office for failing to cure the default pursuant to paragraph 22.6(3) “e” and any other remedies available to the office pursuant to a grant agreement entered into between a grantee and the office pursuant to subrule 22.6(1), the office may, for cause, find that a grantee is not in compliance with the requirements of Iowa Code section 8B.11, these rules, or a grant agreement entered into by the office and a grantee pursuant to subrule 22.6(1).

a. At the office’s sole discretion, remedies for noncompliance may include, but are not limited to, the following:

(1) Issuing a warning letter stating that further failure to comply with program requirements within a stated period of time will result in a more serious action.

(2) Conditioning a future grant on compliance with program requirements within a stated period of time.

(3) Disallowing future reimbursements.

(4) Requiring that some or all previously issued grant funds be reimbursed to the office.

b. Reasons for a finding of noncompliance include, but are not limited to, one or more of the following:

(1) A violation of any of the terms or conditions of a grant agreement entered into between the office and a grantee pursuant to subrule 22.6(1);

(2) A grantee’s failure to complete a project in a timely manner;

(3) A grantee’s failure to comply with any applicable state laws, rules, or regulations;

(4) Claimed expenditures or a prior reimbursement, in whole or in part, was comprised of expenditures that were not allowable or were disallowed, were improperly or incorrectly allocated, or were not supported by sufficient and appropriate documentation;

(5) Claimed expenditures or a prior reimbursement, in whole or in part, was used for the installation of broadband infrastructure that was not in or that does not facilitate broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed in a targeted service area identified in the original application;

(6) A grantee fails to complete the project as proposed in the original application;

(7) The total claimed expenditures or the amount previously reimbursed by the office exceeds 15 percent of the grantee’s estimated or final total allowable project costs, whichever is less;

(8) Any representation or warranty made by a grantee in an application for grant funds, an agreement entered into between a grantee and the office pursuant to subrule 22.6(1), or in any other representation or statement made by the grantee to the office proves untrue in any material respect as of the date of the issuance or making thereof.

22.6(5) Office’s decision and right to appeal.

a. Any decision of the office entitled “proposed decision,” “final decision,” or other like caption as relating to any issues described in subparagraphs 22.6(5) “a”(1) through (5) below shall become final unless, within 30 days of the transmission of such decision by the office by email to the email address of the individual identified in paragraph 22.4(2) “b” or to the email address of a person otherwise identified by the grantee in writing prior to the issuance of such decision as the person authorized by the grantee to respond to inquiries regarding the administration of the grant, a grantee which is adversely affected by the decision files a request for a contested case proceeding pursuant to 129—Chapter 6.

(1) The interpretation, construction, or application of any terms or conditions or resolution of a dispute under a grant agreement entered into between the office and a grantee or under these rules;

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- (2) Whether or in what amount a grantee is entitled to reimbursement pursuant to a grant agreement entered into between the office and a grantee, or under these rules;
 - (3) Whether or in what amount a grantee must repay the office pursuant to a grant agreement entered into between the office and a grantee or under these rules;
 - (4) The imposition of any remedies for noncompliance in accordance with subrule 22.6(4); or
 - (5) Any other decision of the office that relates to the administration of a grant awarded pursuant to Iowa Code section 8B.11, these rules, or a grant agreement entered into between the office and a grantee.
- b.* Failure to challenge the office's decision under this rule by filing a request for a contested case within the 30-day period shall waive any claims an applicant may have related to the administration of a grant award and otherwise be deemed a failure to exhaust administrative remedies.

129—22.7(8B) Reallocation of grant funds. Subject to applicable law, including but not limited to Iowa Code section 8B.11(2) “c,” if grant funds that the office had previously committed to specific grantees are not ultimately issued to a grantee (e.g., because applicable expenditures are not allowed or are disallowed, applicable expenditures were improperly or incorrectly allocated, or a grantee fails to provide sufficient or appropriate documentation to support a claim for reimbursement) or are otherwise repaid to the office pursuant to a grant agreement entered into between the office and a grantee or these rules, the office may award the grant funds to other previous grantees or open additional rounds for applications. If the office awards additional grant funds to other grantees, such grantees shall submit documentation establishing how such grant funds will be expended and may, to the extent applicable, be required to execute contract amendments with the office providing for the expenditure of the additional grant funds and will otherwise be subject to Iowa Code section 8B.11 and these rules.

These rules are intended to implement Iowa Code section 8B.11.

[Filed 10/2/18, effective 11/28/18]

[Published 10/24/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/24/18.

ARC 4099C

DENTAL BOARD[650]

Adopted and Filed

Rule making related to dental specialty advertising

The Dental Board hereby amends Chapter 26, “Advertising,” and rescinds Chapter 28, “Designation of Specialty,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 153.33 and 153.34.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 153.13.

Purpose and Summary

These amendments update the requirements to advertise a specialty in the practice of dentistry. The amendments permit a dentist to advertise as a specialist if the dentist is a diplomate of, or board-eligible for, a national certifying board of a specialty recognized by the American Dental Association (ADA), or a diplomate of a board recognized by the American Board of Dental Specialties. In addition, the amendments provide a third option for those seeking board approval of a proposed area of specialty. The ADA has recently addressed the changing scope of specialization, and recent court cases have

DENTAL BOARD[650](cont'd)

highlighted the constitutional rights of licensees to advertise the services they provide. Chapter 28 established in detail the specialties that could be advertised and the requirements for those specialties. Since the amendments to Chapter 26 set forth the criteria for advertising specialties, the Board is rescinding Chapter 28 at this time.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 18, 2018, as **ARC 3901C**. A public hearing was held at the offices of the Dental Board on August 21, 2018. Two people were in attendance. Dr. Keith Krell, representing the American Association of Endodontists, submitted a position statement issued by the ADA, which acknowledges First Amendment concerns related to advertising but advocates for the establishment of minimum standards related to specialty advertising. Mr. Sean Murphy, counsel for the American Association of Orthodontists (AAO), summarized the written statement submitted by the AAO, which encouraged the Board to utilize recognition by the Commission on Dental Accreditation as the sole criterion for conferring specialty status. Additionally, the AAO suggested placing parameters on new areas of specialty which may arise and adding the word “expert” to the list of regulated words.

The Board received three additional written comments. The American Academy of Pediatric Dentistry indicated support for the amendments, with a proposal to add additional language to subrule 26.4(7) to preclude general practitioners from using advertising that incorporates the term “pediatric dentistry.” Dr. Duane Van Nieuwenhuyzen, a practicing endodontist, submitted comments which stated that deregulation posed a danger to the public as it would allow general practitioners to make claims of specialty without the requirement of adequate training. Dr. Van Nieuwenhuyzen recommended that the Board establish minimum standards for the purposes of advertising as a specialist. The American Association of Endodontists submitted a copy of the ADA position statement summarized above.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on September 28, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 650—Chapter 7.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on November 28, 2018.

DENTAL BOARD[650](cont'd)

The following rule-making actions are adopted:

ITEM 1. Amend rule 650—26.4(153) as follows:

650—26.4(153) Public representation. All ~~advertisement~~ advertisements and public representations shall contain the name and address or telephone number of the practitioner who placed the ad.

26.4(1) If one's practice is referred to in the advertisement, the ad may state either "general/family practice" or ~~the American Dental Association recognized specialty that the practitioner practices~~ "specialist," "specializes," or "specializing." A dentist advertising or representing oneself as a specialist must comply with the other provisions of this rule.

26.4(2) ~~No dentist may state or imply that the dentist is certified as a specialist when that is not the case. Use of the terms "specialist," "specializing in" or other similar terms in connection with areas that are not recognized as specialties pursuant to 650—Chapter 28 is not permitted~~ A dentist may advertise as a specialist if the dentist meets the standards set forth in this rule.

a. The dentist wishing to advertise as a specialist must be a diplomate of, or board-eligible for, a national certifying board of a specialty recognized by the American Dental Association (ADA), or a diplomate of a board recognized by the American Board of Dental Specialties (ABDS); and

b. The indicated area of specialty must be board-approved. Board-approved ADA specialties are as follows: dental public health, endodontics, oral and maxillofacial pathology, oral and maxillofacial surgery, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, prosthodontics and oral and maxillofacial radiology. Board-approved ABDS specialties are as follows: oral implantology/implant dentistry, oral medicine, orofacial pain, and anesthesiology.

26.4(3) A certifying board may apply for a new area of specialty to become board-approved by submitting information regarding the area of specialty, including an explanation of how the proposed specialty is within the scope of practice of dentistry in Iowa, and proof of the following:

a. The proposed specialty is separate and distinct from any preexisting specialty recognized by the board or combination of board-recognized dental specialties;

b. The proposed specialty is a distinct and well-defined field which requires unique knowledge and skills beyond those commonly possessed by dental school graduates;

c. The certifying board is an independent entity that is comprised of licensed dentists, whose membership is reflective of the proposed specialty, and that is incorporated and governed solely by the licensed dentists/board members;

d. The certifying board has a permanent headquarters and staff;

e. The certifying board has issued diplomate certificates to licensed dentists for at least five years;

f. The certifying board requires passing an oral and written examination based on psychometric principles that tests the applicant's knowledge and skill in the proposed specialty;

g. The certifying board requires all dentists who seek certification in the proposed specialty to have successfully completed a specified, objectively verifiable amount of post-DDS or -DMD education and experience that is appropriate for the proposed specialty area, as determined by the board; and

h. The certifying board's website that includes online resources for the consumer to verify the certifying board's certification requirements and a list of the names and addresses of the dentists who have been awarded certification by the board shall be made available for public access.

26.4(4) The use of the terms "specialist," "specializes," "orthodontist," "oral and maxillofacial surgeon," "oral and maxillofacial radiologist," "periodontist," "pediatric dentist," "prosthodontist," "endodontist," "oral pathologist," "public health dentist," "dental anesthesiologist," or other similar terms which imply that the dentist is a specialist may only be used by a licensed dentist meeting the requirements of this rule. A dentist who advertises as a specialist must avoid any implication that other dentists associated with the same practice are specialists unless the dentists also meet all of the requirements of this rule.

26.4(5) The term "diplomate" or "board-certified" may only be used by a dentist who has successfully completed the qualifying examination of the appropriate certifying board of one or more of the specialties recognized by the ADA or the ABDS, or as otherwise permitted pursuant to these rules.

DENTAL BOARD[650](cont'd)

26.4(6) A dentist advertising as a specialist pursuant to these rules shall include the name of the national certifying board and the name of the entity which recognizes the board in the advertisement.

~~26.4(3)~~ **26.4(7) Dentists** A dentist may advertise the areas in which they practice the dentist practices, including, but not limited to, specialty services, using other descriptive terms such as “emphasis on _____” or other similar terms, as long as all other provisions of these rules regarding advertising are met.

ITEM 2. Rescind and reserve **650—Chapter 28**.

[Filed 10/1/18, effective 11/28/18]

[Published 10/24/18]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/24/18.

ARC 4100C

IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM[495]

Adopted and Filed

Rule making related to bona fide retirement

The Iowa Public Employees’ Retirement System (IPERS) hereby amends Chapter 11, “Application for, Modification of, and Termination of Benefits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 97B.4 and 97B.15.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 97B.52A.

Purpose and Summary

Sentences concerning bona fide retirement for newly elected officials were inadvertently deleted from subrule 11.5(1) in IPERS’ most recent rule making (**ARC 3684C**, IAB 3/14/18). This rule making restores sentences on this subject. Specifically, IPERS adds the following language as an unnumbered paragraph in 11.5(1):

“The bona fide retirement period will be waived if the member has been elected to public office which term begins during the normal four-month bona fide retirement period. This includes elected officials who shall be covered under this chapter as defined in Iowa Code section 97B.1A. This waiver does not apply if the member was an elected official who was reelected to the same position for another term.”

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 4, 2018, as **ARC 3885C**. IPERS accepted written comments concerning the proposed rule making from any interested person. Written comments in response to this rule making had to be received by IPERS no later than 4:30 p.m. on July 24, 2018. No comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by IPERS on October 4, 2018.

Fiscal Impact

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

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

Jobs Impact

IPERS-covered retirees will be allowed to serve as newly elected officials before they have completed a bona fide retirement period.

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 IPERS for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on November 28, 2018.

The following rule-making action is adopted:

Amend subrule 11.5(1) as follows:

11.5(1) Bona fide retirement—general. To receive retirement benefits, a member under the age of 70 must officially leave employment with all IPERS-covered employers, give up all rights as an employee, and complete a period of bona fide retirement. A period of bona fide retirement means four or more consecutive calendar months for which the member qualifies for monthly retirement benefit payments. The qualification period begins with the member's first month of entitlement for retirement benefits as approved by IPERS. A member may not return to covered employment before filing a completed application for benefits. Notwithstanding the foregoing, the continuation of group insurance coverage at employee rates for the remainder of the school year for a school employee who retires following completion of services by that individual shall not cause that person to be in violation of IPERS' bona fide retirement requirements.

A member will not be considered to have a bona fide retirement if the member is a school or university employee and returns to work with the employer after the normal summer vacation. In other positions, temporary or seasonal interruption of service which does not terminate the period of employment does not constitute a bona fide retirement. A member also will not be considered to have a bona fide retirement if the member has, prior to or during the member's first month of entitlement, entered into verbal or written arrangements with the employer to return to employment after the expiration of the four-month bona fide retirement period.

Effective July 1, 1990, a school employee will not be considered terminated if, while performing the normal duties, the employee performs for the same employer additional duties which take the employee beyond the expected termination date for the normal duties. Only when all the employee's compensated duties cease for that employer will that employee be considered terminated.

The bona fide retirement period shall be waived for an elected official covered under Iowa Code section 97B.1A(8) "a"(1), and for a member of the general assembly covered under Iowa Code section 97B.1A(8) "a"(2), when the elected official or legislator notifies IPERS of the intent to terminate IPERS coverage for the elective office and, at the same time, terminates all other IPERS-covered employment prior to the issuance of the retirement benefit. Such an elected official or legislator may remain in the elective office and receive an IPERS retirement without violating IPERS' bona fide retirement rules. If such elected official or legislator terminates coverage for the elective office and also terminates all other IPERS-covered employment but is then reemployed in covered employment, and has not received a

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

retirement as of the date of hire, the retirement shall not be made. Furthermore, if such elected official or legislator is reemployed in covered employment, the election to revoke IPERS coverage for the elective position shall remain in effect, and the elected official or legislator shall not be eligible for new IPERS coverage for such elected position. The prior election to revoke IPERS coverage for the elected position shall also remain in effect if such elected official or legislator is reelected to the same position without an intervening term out of office.

The bona fide retirement period will be waived if the member has been elected to public office which term begins during the normal four-month bona fide retirement period. This includes elected officials who shall be covered under this chapter as defined in Iowa Code section 97B.1A. This waiver does not apply if the member was an elected official who was reelected to the same position for another term.

Effective July 1, 2000, a member does not have a bona fide retirement until all employment with covered employers, including employment which is not covered under this chapter, is terminated for at least one month, and the member does not return to covered employment for an additional three months. In order to receive retirement benefits, the member must file a completed application for benefits before returning to any employment with a covered employer.

Effective July 1, 2018, a member will not have a bona fide retirement if the member enters into a verbal or written arrangement to perform duties for the member's former employer(s) as an independent contractor prior to or during the member's first month of entitlement or performs any duties for the member's former employer(s) as an independent contractor prior to receiving four months of retirement benefits.

[Filed 10/5/18, effective 11/28/18]

[Published 10/24/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/24/18.

ARC 4101C

IOWA PUBLIC INFORMATION BOARD[497]

Adopted and Filed

Rule making related to petitions and advisory opinions

The Iowa Public Information Board hereby amends Chapter 1, "Organization and Administration," Chapter 3, "Declaratory Orders," and Chapter 5, "Petitions for Rule Making," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 23.6(2).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 21 and 22 and sections 23.6 to 23.8.

Purpose and Summary

This rule making adopts amendments that are the result of the five-year review of the Board's rules.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 23, 2018, as **ARC 3808C**. No public comments were received. No changes from the Notice have been made.

IOWA PUBLIC INFORMATION BOARD[497](cont'd)

Adoption of Rule Making

This rule making was adopted by the Board on September 20, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on November 28, 2018.

The following rule-making actions are adopted:

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

1.2(1) Jurisdiction. The board will only accept requests for and issue advisory opinions pertaining to Iowa Code chapters 21 and 22, or rules adopted thereunder. The board shall not have jurisdiction over the judicial or legislative branches of state government or any entity, officer, or employee of those branches, or over the governor or the office of the governor.

ITEM 2. Amend rule 497—3.1(17A) as follows:

497—3.1(17A) Petition for declaratory order. Any person may file a petition with the board for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the board, at Iowa Public Information Board, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. Petitions may also be filed by fax at (515)725-1789 or by email at ipib@iowa.gov. A petition is deemed filed when it is received by that office. The board shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

IOWA PUBLIC INFORMATION BOARD

Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law involved).	PETITION FOR DECLARATORY ORDER
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The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the order is requested.

IOWA PUBLIC INFORMATION BOARD[497](cont'd)

- 2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
- 3. The questions petitioner wants answered, stated clearly and concisely.
- 4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
- 5. The reasons for requesting the declaratory order and disclosure of the petitioner’s interest in the outcome.
- 6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner’s knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
- 7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.
- 8. Any request by petitioner for a meeting provided for by rule 497—3.7(17A).

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

ITEM 3. Amend subrule 3.3(3) as follows:

3.3(3) A petition for intervention shall be filed at Iowa Public Information Board, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. Petitions may also be filed by fax at (515)725-1789 or by email at ipib@iowa.gov. Such a petition is deemed filed when it is received by that office. The board will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

IOWA PUBLIC INFORMATION BOARD

Petition by (Name of Original Petitioner) for a Declaratory Order on (Cite provisions of law cited in original petition).	PETITION FOR INTERVENTION
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The petition for intervention must provide the following information:

- 1. Facts supporting the intervenor’s standing and qualifications for intervention.
- 2. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.
- 3. Reasons for requesting intervention and disclosure of the intervenor’s interest in the outcome.
- 4. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor’s knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
- 5. The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, the questions presented.
- 6. Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

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

ITEM 4. Amend rule 497—5.1(17A), introductory paragraph, as follows:

497—5.1(17A) Petition for rule making. Any person or agency may file a petition for rule making with the board at Iowa Public Information Board, Wallace State Office Building, 502 East 9th Street, Des

IOWA PUBLIC INFORMATION BOARD[497](cont'd)

Moines, Iowa 50319. Petitions may also be filed by fax at (515)725-1789 or by email at ipib@iowa.gov. A petition is deemed filed when it is received by the board. The board must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

ITEM 5. Amend subrule 5.1(1) as follows:

5.1(1) The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, email address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

[Filed 9/26/18, effective 11/28/18]

[Published 10/24/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/24/18.

ARC 4102C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to physical therapy licensure compact and background check requirements

The Board of Physical and Occupational Therapy hereby amends Chapter 200, "Licensure of Physical Therapists and Physical Therapist Assistants," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 147.76 and chapter 148A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 147C.

Purpose and Summary

These amendments define the requirements for participation in the physical therapy licensure compact, add background check requirements for initial licensure and licensure by endorsement for all physical therapist (PT) and physical therapist assistant (PTA) applicants, add a fee for the issuance of a compact privilege to practice in Iowa, and waive the compact privilege fee for an active duty military member or spouse.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 15, 2018, as **ARC 3944C**. A public hearing was held on September 4, 2018, at 8 a.m. in Fifth Floor Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on September 27, 2018.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. No costs are involved for the Department of Public Health. All new PT and PTA licensure applicants will be required to pay the fee for a criminal history background check regardless of whether or not the applicants choose to participate in the PT licensure compact.

Jobs Impact

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

Waivers

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

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 January 1, 2019.

The following rule-making actions are adopted:

ITEM 1. Renumber subrules **200.2(5)** to **200.2(8)** as **200.2(6)** to **200.2(9)**.

ITEM 2. Adopt the following **new** subrule 200.2(5):

200.2(5) The applicant shall submit two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI). The cost of the criminal history background check by the DCI and the FBI shall be assessed to the applicant.

ITEM 3. Adopt the following **new** rule 645—200.3(147):

645—200.3(147) Physical therapy compact. The rules of the physical therapy compact commission are incorporated by reference. A physical therapist or physical therapist assistant may engage in the practice of physical therapy in Iowa without a license issued by the board if the individual has a current compact privilege to practice in Iowa issued by the physical therapy compact commission. The state fee for issuance of a compact privilege to practice in Iowa shall be \$60, which will be collected by the physical therapy compact commission. The state fee for issuance of a compact privilege to practice in Iowa shall be waived for an active duty military member or spouse of an individual who is an active duty military member. A physical therapist or physical therapist assistant who practices physical therapy in Iowa using a compact privilege is subject to the rules governing licensees in rule 645—200.6(147) and in 645—Chapters 201 and 202. Complaints, investigations, and disciplinary proceedings involving a compact privilege shall be handled in accordance with Iowa Code chapters 17A and 272C; 2018 Iowa Acts, House File 2425; and the rules in 645—Chapters 9, 11, 12, and 13.

ITEM 4. Reletter paragraphs **200.7(1)“e”** and **“f”** as **200.7(1)“f”** and **“g.”**

ITEM 5. Adopt the following **new** paragraph **200.7(1)“e”**:

e. Submits two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check by the Iowa division of criminal investigation (DCI) and the Federal

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Bureau of Investigation (FBI). The cost of the criminal history background check by the DCI and the FBI shall be assessed to the applicant;

[Filed 10/3/18, effective 1/1/19]

[Published 10/24/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/24/18.

ARC 4103C

SECRETARY OF STATE[721]

Adopted and Filed

Rule making related to elections technology security

The Secretary of State hereby adopts new Chapter 29, "Elections Technology Security," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 47.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 47.7.

Purpose and Summary

New Chapter 29 requires that all users authorized to access the statewide voter registration database (I-Voters) undergo annual security training. Chapter 29 further requires that county elections officials immediately report any breaches or cybersecurity incidents to the Secretary of State for escalation to appropriate state and federal entities.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 1, 2018, as **ARC 3914C**. Emails were received from county elections personnel for approval of their security training vendors. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Secretary of State on September 24, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Secretary of State for a waiver of the discretionary provisions, if any, pursuant to 721—Chapter 10.

SECRETARY OF STATE[721](cont'd)

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on November 28, 2018.

The following rule-making action is adopted:

Adopt the following **new** 721—Chapter 29:

CHAPTER 29
ELECTIONS TECHNOLOGY SECURITY

721—29.1(47) Definitions. The following definitions are adopted.

“*Breach*” means a compromise of security processes that leads to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to protected information.

“*Commissioner*” means the county commissioner of elections as defined in Iowa Code chapter 47.

“*Cybersecurity*” means the prevention of damage to, protection of, and restoration of computers, electronic communications systems, electronic communications services, wire communication, and electronic communication, including information contained therein, to ensure their availability, integrity, authentication, confidentiality, and nonrepudiation.

“*Elections technology*” means the statewide voter registration database, voting system, electronic poll books, and other technologies used to register, maintain, or process voters or conduct any election. For purposes of this rule, these terms shall have the definitions as described in the administrative rules of the secretary of state.

“*Encryption*” means the use of an algorithmic process to transform data into a form in which the data is rendered unreadable or unusable without the use of a confidential process or key.

“*Incident*” means an occurrence that actually or potentially jeopardizes the confidentiality, integrity, or availability of an information system or the information the system processes, stores, or transmits or that constitutes a violation or imminent threat of violation of security policies, security procedures, or acceptable use policies.

“*I-Voters*” means the statewide voter registration database.

“*Office of the chief information officer*” or “*OCIO*” means the state chief information officer.

“*Registrar*” means the county commissioner of registration as defined in Iowa Code section 48A.3.

“*State commissioner*” means the state commissioner of elections as described in Iowa Code chapter 47.

“*State registrar*” means the state registrar of voters as defined in Iowa Code chapter 48A.

“*User*” means anyone from the state registrar or county registrar or approved third-party vendor who accesses I-Voters.

721—29.2(47) Cybersecurity training.

29.2(1) All users who access the I-Voters database must complete annual training programs on principles of cybersecurity. Upon completion of the training, a user shall transmit proof of completion to the state registrar. The state registrar shall maintain a list of approved training programs on the secretary of state's website. The state registrar shall consult with the OCIO or the federal Election Assistance Commission before adding trainings to the list of approved programs. If requested by the office of the chief information officer, the federal Election Assistance Commission, or a county registrar, the state registrar may review and add recommended cybersecurity training programs to the approved list.

SECRETARY OF STATE[721](cont'd)

29.2(2) The state registrar may disable any user account if the user does not complete the training within 30 days of access granted, or on the anniversary date set by the state registrar.

29.2(3) The state registrar may temporarily waive this requirement for any user if the state registrar believes it is necessary to the execution of the election.

721—29.3(47) Cybersecurity incident or breach.

29.3(1) A commissioner who identifies or suspects an actual or possible cybersecurity incident or breach shall immediately report the incident to the state commissioner. Upon receiving the report, the state commissioner shall alert the appropriate state or federal law enforcement agencies, the federal Department of Homeland Security, the OCIO, and the vendor responsible for maintaining the affected technology. The state commissioner may disseminate the information to other agencies as the state commissioner deems necessary.

29.3(2) Information reported to the state commissioner under this rule shall be exempt from public records requests pursuant to Iowa Code section 22.7(50).

29.3(3) Nothing in this rule prohibits a commissioner from alerting local law enforcement prior to contacting the state commissioner in the event of an incident or breach.

These rules are intended to implement Iowa Code section 47.7(2).

[Filed 10/1/18, effective 11/28/18]

[Published 10/24/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/24/18.

ARC 4104C

UTILITIES DIVISION[199]

Adopted and Filed

Rule making related to utility management efficiency

The Utilities Board hereby amends Chapter 29, "Management Efficiency Standards," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 474.5 and 476.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 476.2 and 476.52.

Purpose and Summary

The purpose of this rule making is to update and amend the Board's rules establishing standards for evaluation of rate-regulated utilities' management efficiency as required in Iowa Code section 476.52. The Board issued an order requesting stakeholder comments on proposed amendments to the evaluation of management efficiency rules in Chapter 29. The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Iowa American Water Company; and MidAmerican Energy Company and Interstate Power and Light Company (jointly) filed comments addressing the proposed amendments.

The Board reviewed the stakeholder comments and reviewed the current rules and adopts the following amendments to the evaluation standards for management efficiency. These amendments update the language in the chapter and apply the statutory authority provided the Board in Iowa Code section 476.52.

UTILITIES DIVISION[199](cont'd)

The Board issued an order on April 24, 2018, commencing this rule making. The order provides a full discussion of the amendments and is available on the Board's electronic filing system, efs.iowa.gov, under Docket No. RMU-2016-0037.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 20, 2018, as **ARC 3852C**. A public hearing was held on July 24, 2018, at 9 a.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa. The Board received comments from the OCA, as well as from Iowa American Water Company, Interstate Power and Light Company, and MidAmerican Energy Company. Black Hills Energy was also present at the public hearing. The parties did not have any objections or proposed changes to the amendments proposed in the Notice of Intended Action.

Minor changes were made to subrule 29.3(1) to correct a formatting mistake. Two factors that were intended to be listed in separate paragraphs were inadvertently listed together under paragraph 29.3(1)"d" in the Notice. Subsequent paragraphs were relettered accordingly.

Adoption of Rule Making

This rule making was adopted by the Board on September 24, 2018.

Fiscal Impact

These amendments update and amend existing rules that are required to be promulgated for evaluation of rate-regulated utilities management efficiency. No additional actions having a fiscal impact were taken.

Jobs Impact

After analysis and review, the Board concludes that the amendments will not have a detrimental effect on employment in Iowa.

Waivers

No waiver provision is included in the amendments since the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in this chapter.

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 November 28, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend **199—Chapter 29**, title, as follows:

MANAGEMENT EFFICIENCY STANDARDS EVALUATION

ITEM 2. Amend rule 199—29.1(476) as follows:

199—29.1(476) Policy and purpose. It is the policy of the board that a public utility shall be operated in an efficient manner. This chapter describes the methodology ~~to be used for evaluating by which the board may evaluate the~~ management efficiency of a rate-regulated utility ~~management~~ and the ~~manner in~~

UTILITIES DIVISION[199](cont'd)

~~which those evaluations will be used~~ actions that the board may take upon a finding as to the efficiency of a utility's management.

ITEM 3. Amend rule 199—29.2(476) as follows:

199—29.2(476) Efficiency considered in a complaint or rate case proceeding. ~~In formal a complaint proceeding conducted pursuant to Iowa Code section 476.3 or in a rate proceedings proceeding conducted under pursuant to Iowa Code chapter 476 section 476.6, the board may consider determine whether the a public utility subject to rate regulation is being operated in an efficient or inefficient manner. All utilities will be evaluated according to the procedure set forth in~~ In making such a determination, the board shall evaluate the management of the utility in the manner prescribed by rule 199—29.3(476). ~~If the board finds the utility is poorly managed or exceptionally well managed, the board may establish a penalty or reward, respectively, as provided in rule 29.4(476). Any adjustment to a utility's level of profit (return on equity) or revenue requirement shall be made in compliance with Iowa Code section 476.52.~~

ITEM 4. Amend rule 199—29.3(476) as follows:

199—29.3(476) Management efficiency standards evaluation. The board may evaluate a utility's management efficiency based upon the utility's particular circumstances and considering a range of factors that may differ among utilities. In evaluating a utility's management efficiency, the board may consider any of the factors listed in subrule 29.3(1) and any additional relevant factors. No single factor will be deemed conclusive evidence of efficiency or inefficiency. In performing the evaluation, the board may collect data to compare a utility to other rate-regulated utilities providing the same service within the state of Iowa. The board may consider data for time periods outside a rate case test year.

~~29.3(1) In general. Factors. The efficiency or inefficiency of a utility will be evaluated on a case-by-case basis, based upon the utility's particular facts and circumstances. Utility management efficiency does not lend itself to an absolute measure due to the vast array of extremely important factors that may vary from area to area. These include such things as customer mix, territory of the utility, economic conditions in the areas served, weather patterns and disasters. The reality of change, and the ability of management to anticipate and respond to these changes, greatly affect any judgment of management efficiency or inefficiency, and must be considered in establishing any rewards for efficiency or penalties for inefficiency.~~

~~When evaluating a utility, the board may consider any of the factors listed in this subrule and any additional relevant information. These factors will be guidelines for evaluating a utility's efficiency or inefficiency. No single factor or group of factors will be deemed conclusive evidence of efficiency or inefficiency. In considering those factors, the board may collect data to compare a utility, except a water utility, to other utilities providing the same service in the state. The board may consider the following factors:~~

~~a. The price per unit of service (including amounts collected subject to refund) by customer class and type of service. For natural gas utilities, one "unit of service" is 1000 BTUs.~~

~~b. Operation and maintenance costs per unit of service. Low operations and maintenance costs will not be deemed indicative may not support a finding of efficiency if quality of service is substandard. This data, when required, shall be reported on a total company basis and on an Iowa jurisdictional basis if the company serves jurisdictions other than Iowa.~~

~~c. Quality of service, as reflected by in objective measures of service quality, customer complaints shown in company and board records, findings made in complaint proceedings, penalties assessed, and measures of customer satisfaction.~~

~~d. Officer compensation Customer mix.~~

~~(1) Gas and electric utilities. The total compensation for electric and gas utilities for each officer. The utility, when required, shall provide this information both for the utility and for the parent/holding company.~~

~~(2) Telephone utilities:~~

UTILITIES DIVISION[199](cont'd)

~~1. The five largest total compensation packages that are expensed or capitalized to Iowa's regulated operations by the utility or its affiliates, and~~

~~2. The five largest total compensation packages for officers or employees stationed in Iowa. Each telephone company, when required, shall provide this information and shall indicate what portions of the compensation packages in 29.3(1) "d"(2)"2" are allocated to Iowa regulated operations.~~

~~e. The total compensation for each officer of the utility.~~

~~e. f. The company's bad debt ratio.~~

~~f. g. Innovative ideas practices implemented by utility management that result in improved service or that control costs.~~

~~g. Other factors the board determines to be relevant in an individual proceeding.~~

~~h. Geographic service territory.~~

~~i. Economic conditions in the areas served.~~

~~j. Weather patterns and disasters.~~

~~29.3(2) Electric utilities. When evaluating an electric utility, in addition to considering the factors listed in subrule 29.3(1), the board may consider factors specific to electric utilities including the following factors in addition to the factors listed in subrule 29.3(1):~~

~~a. Fuel cost per kwh.~~

~~b. Availability for each generating unit with 2,000 or more service hours per year.~~

~~c. Company wide Companywide load factor.~~

~~d. Development and implementation of energy efficiency programs.~~

~~29.3(3) Natural gas utilities. When evaluating a natural gas utility, in addition to considering the factors listed in subrule 29.3(1), the board may consider factors specific to natural gas utilities including the following factors in addition to the factors listed in subrule 29.3(1):~~

~~a. Total cost per unit of gas purchased by distribution companies from the a pipeline (to be considered separately from operations and maintenance costs).~~

~~b. Total cost per unit of gas purchased gas from other sources (to be considered separately from operations and maintenance costs).~~

~~c. Residential and commercial sales volume in relation to investment in the system (rate base).~~

~~d. Unaccounted-for gas as a percentage of total sales volume.~~

~~e. Development and implementation of energy efficiency programs.~~

~~29.3(4) Telephone utilities. When evaluating a telephone utility, the board may consider the following factors in addition to the factors listed in subrule 29.3(1):~~

~~a. Total plant investment per customer.~~

~~b. Quality of service, as reflected by the percentage of customers with access to specific types of service.~~

~~29.3(5) Water utilities. Water utilities will not be evaluated by comparison with other water utilities. Satisfactory management of water utilities will be presumed unless the contrary is established in an individual proceeding under Iowa Code chapter 476.~~

ITEM 5. Amend rule 199—29.4(476) as follows:

199—29.4(476) Rewards and penalties. In the course of a proceeding conducted under Iowa Code chapter 476, the board will determine whether a utility is being managed well or poorly. In making this determination, the board will not be limited to test year data. If the board determines that a utility is being managed exceptionally well, the board will adjust the return on common equity upward to reflect the degree of management efficiency. If the board determines that a utility, except a rural electric cooperative, is being poorly managed, the board will adjust the return on common equity downward to reflect the degree of management inefficiency. When a rural electric cooperative is shown to be poorly managed, the board will disallow from the revenue requirement all travel expenses for the board of directors and manager. The board will not establish any reward or penalty if the board finds the utility has been managed satisfactorily but not exceptionally well or poorly, because satisfactory management is expected from all public utilities. If the board makes a determination as to the efficiency of the management of a utility pursuant to rule 199—29.2(476), except for an electric cooperative that has

UTILITIES DIVISION[199](cont'd)

elect rate regulation, the board may prescribe an adjustment of the utility's return on common equity or revenue requirement as allowed pursuant to Iowa Code section 476.52. Upon making a determination as to the efficiency of the management of a rural electric cooperative that has elected rate regulation, the board may prescribe an adjustment of the rates charged by the cooperative as part of an adjustment to the utility's revenue requirement.

[Filed 9/24/18, effective 11/28/18]

[Published 10/24/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/24/18.

ARC 4105C

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Adopted and Filed

Rule making related to veterans trust fund

The Iowa Department of Veterans Affairs hereby amends Chapter 14, "Veterans Trust Fund," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 35A.13.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 35A.13.

Purpose and Summary

The Iowa Commission of Veterans Affairs is cleaning up Chapter 14 rules related to the Veterans Trust Fund, making all areas of assistance consistent for eligibility requirements. The rules have not been changed since the program began in 2007.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 15, 2018, as **ARC 3936C**. 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 September 28, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on November 28, 2018.

The following rule-making action is adopted:

Amend rule 801—14.4(35A) as follows:

801—14.4(35A) Benefits available. Applications may be approved for any of the following purposes. By a majority vote, the commission may suspend some or all of these benefits for payment.

14.4(1) *Travel expenses for wounded veterans, and their spouses, directly related to follow-up medical care.* Travel expenses under this subrule include the unreimbursed cost of airfare, lodging, and a per diem of \$25 per day for required out-of-state medical travel that exceeds 125 miles from the veteran's home. Spouses may be reimbursed for in-state lodging and a per diem of \$25 per day when visiting a veteran who is in a hospital for medical care related to a service-connected disability. The distance from the veteran's home to the hospital must exceed 100 miles. The veteran or the veteran's spouse shall provide such evidence as the commission may require, which includes but is not limited to evidence the injury or disability is service-connected, the necessity of treatment in a particular facility, and documentation of expenses. The maximum amount for lodging reimbursement shall be \$90. The maximum amount of aid payable in a consecutive 12-month period under this subrule is \$1,000. The commission may waive the income threshold for this benefit.

14.4(2) *Job training or college tuition assistance for job retraining.*

a. The commission may pay a veteran not more than \$3,000 for retraining or postsecondary education to enable the veteran to obtain gainful employment. The commission may provide aid under this subrule if all of the following apply:

(1) The veteran is enrolled in a training course in a technical college or school, is enrolled in an accredited postsecondary institution, or is engaged in a structured on-the-job training program.

(2) The veteran is unemployed, underemployed, or has received a notice of termination of employment.

(3) The commission determines that the veteran's proposed program, or current program, will provide retraining or initial training that could enable the veteran to find gainful employment. In making its determination, the commission shall consider whether the proposed program, or current program, provides adequate employment skills and is in an occupation for which favorable employment opportunities are anticipated.

(4) The veteran requesting aid has not received full reimbursement or payment from any other retraining or education scholarship programs and the veteran does not have other assets or income available to meet retraining or initial training expenses. Applicants requesting aid under this subrule will only be granted the unpaid portion of their tuition statement, and the payment will be made directly to the institution.

b. The veteran shall provide such evidence as the commission may require to satisfy the requirements of this subrule.

14.4(3) *Unemployment or underemployment assistance during a period of unemployment or underemployment due to prolonged physical or mental illness resulting from military service or disability resulting from military service (must be physically and mentally able to return to work).* The commission may provide subsistence payments only to a veteran who has suffered a loss of income due to prolonged physical or mental illness resulting from military service or disability resulting from

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

military service. The commission may provide subsistence payments of up to \$500 per month of unemployment or underemployment to a veteran. A veteran must provide documentation of assistance from Iowa workforce development and vocational rehabilitation, if eligible. No payment may be made under this subrule if the veteran has other assets or income available to meet basic subsistence needs. A period of unemployment implies that it is possible for the veteran to be employed in the future. A rating from the VA of 100 percent due to individual unemployability (IU) rated permanent and total indicates that a veteran is unemployable and will not qualify for assistance under this subrule. The veteran shall provide such evidence as the commission may require, which includes but is not limited to evidence that the mental illness or disability is service-connected and evidence that the veteran is unemployed or underemployed for the period of payments. To qualify as underemployed, the applicant must be currently working at an income that is below 150 percent of federal poverty guidelines due to limitations caused by the applicant's service-connected disability or illness. The maximum amount of aid payable in a consecutive 12-month period under this subrule is \$3,000 and a lifetime maximum of \$6,000.

14.4(4) *Expenses related to hearing care, dental care, vision care, or prescription drugs.*

a. The commission may provide health care aid to a veteran, to the veteran's spouse or dependents, or to the unremarried spouse of a deceased veteran for dental care, including dentures; vision care, including eyeglass frames and lenses; hearing care, including hearing aids; and prescription drugs that are not covered by the Veterans Affairs medical center.

b. The maximum amount that may be paid under this subrule for any consecutive 12-month period may not exceed \$2,500 for dental care, \$500 for vision care, \$1,500 per ear for hearing care, and \$1,500 for prescription drugs. Lifetime maximum benefit: \$10,000.

c. The commission shall not provide health care aid under this subrule unless the aid recipient's health care provider agrees to accept, as full payment for the health care provided, the amount of the payment; the amount of the recipient's health insurance or other third-party payments, if any; and the amount that the commission determines the veteran is capable of paying. Payment under this subrule will be provided directly to the health care provider. The commission shall not pay health care aid under this subrule if the available liquid assets of the veteran are in excess of ~~\$5,000~~ \$15,000.

d. Applicants for assistance under this subrule will be required to provide the commission with an unpaid bill for service or an estimated cost of service from the health care provider and documentation of the need for the service. For prescription drugs, the applicant must produce documentation of the need for the prescribed drug and documentation stating whether a generic drug is available or appropriate. The commission payment will not exceed an estimated cost of service by a health care provider.

14.4(5) *Expenses relating to the purchase of durable equipment or services to allow a veteran, the veteran's spouse or dependents, or the unremarried spouse of a deceased veteran to remain in their home.*

a. The commission may make reimbursement payments to a veteran or to the unremarried spouse of a deceased veteran for the purchase of durable equipment that allows the veteran, the veteran's spouse or dependents, or the unremarried spouse of a deceased veteran to remain in their home or allows them the ability to utilize more of their home.

b. Individuals requesting reimbursement under this subrule will be required to provide verification of the purchase and installation of the equipment and information relating to the need for the equipment. Individuals may also provide a product and installation cost estimate to the commission for approval, with the understanding that the commission will pay no more than the cost estimate to the supplier or installer. Applicants needing durable equipment as a medical necessity should provide information from a physician.

c. Assistance under this subrule cannot duplicate assistance from other entities, and the maximum amount that may be paid may not exceed \$2,500.

d. The commission shall not pay a reimbursement under this subrule if the available liquid assets of the veteran are in excess of ~~\$5,000~~ \$15,000.

14.4(6) *Individual counseling or family counseling programs.*

a. The commission may make mental health, substance abuse, and family counseling available to veterans and their families. Individual family members are eligible for counseling.

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b. The assistance may include appropriate counseling and treatment programs for veterans and their families in need of services.

c. Any assistance provided under this subrule shall not duplicate other services readily available to veterans and their families. Veterans who are eligible for VA mental health services must initially visit their nearest VA medical facility for initial consultation and continued psychiatric treatment. Payment under this subrule will be made for additional services for the veteran in a location closer to the veteran's home and at a greater frequency than the VA medical center can accommodate.

d. The commission may provide up to \$150 per hour and \$75 per half-hour for outpatient counseling visits to providers who will accept as full payment for the counseling services the amount provided. Counseling and substance abuse services provided in a group setting may be paid up to \$40 per hour. Counseling and substance abuse services may also be provided in an inpatient setting, subject to the maximum amount eligible under 14.4(6) "f."

e. The maximum amount that may be paid under this subrule for any consecutive 12-month period shall not exceed \$5,000. Individuals seeking counseling services are eligible for up to \$2,500, individuals seeking substance abuse treatment and counseling combined are eligible for up to \$3,500, and families seeking counseling services that may also include individual counseling and substance abuse services are eligible for up to \$5,000.

f. The commission may not provide counseling under this subrule unless the aid recipient's counseling service provider agrees to accept, as full payment for the counseling services provided, the amount of the payment; the amount of the recipient's health insurance or other third-party payments, if any; and the amount that the commission determines the veteran is capable of paying. The commission will make payment directly to the entity providing counseling and substance abuse services. The commission shall not pay for counseling under this subrule if the available liquid assets of the veteran are in excess of ~~\$5,000~~ \$15,000.

14.4(7) *Expenses relating to ambulance and emergency room services for veterans and emergency lodging for immediate family members.*

a. The commission may provide assistance to veterans for expenses related to ambulance trips, including air ambulance transportation, and emergency room visits for emergency care patients or VA health care patients ~~that~~ who cannot indicate to emergency personnel that they are to be presented to a VA medical center.

b. Funding through this subrule shall be paid directly to the entity providing the emergency service or transportation after the commission is provided with an unpaid bill. All efforts should be made to utilize all other methods of payment prior to accessing assistance under this subrule.

c. The maximum amount that may be paid under this subrule may not exceed ~~\$5,000~~ \$7,500.

14.4(8) *Emergency expenses related to vehicle repair, housing repair, or temporary housing assistance.*

a. The commission may provide assistance to a veteran or to the unremarried spouse of a deceased veteran for emergency vehicle repair, emergency housing repair, and temporary housing.

b. Assistance for vehicle repair is limited to expenses that are required for continued use of the vehicle. This assistance will only be granted in cases where the vehicle is needed for travel to and from work-related activities, the applicant is over the age of 65, or substantial hardship will occur if the vehicle is not repaired. Assistance may be provided in situations where the applicant does not have sufficient means to pay an insurance deductible. Assistance may be paid directly to the entity performing the maintenance or the insurance company owed the deductible. In certain circumstances, reimbursement may be made to the veteran or to the unremarried spouse of a deceased veteran in order for the vehicle to be released from the entity providing the service. Assistance will not be provided for damage caused during the commission of a crime, for cosmetic needs, for damage resulting in an auto accident when automobile insurance has not been purchased, or for routine maintenance.

c. Assistance for home repair is limited to repairs that are required to improve the conditions and integrity of the home and are necessary for the safety and security of the residents. Applicants with homeowners insurance may request assistance for payment of a deductible. Assistance may be provided for applicants in disaster situations, home accidents, vandalism, or other situations as determined by

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the commission. In situations where a home is damaged beyond repair, assistance under this subrule is available to assist the applicant in purchasing a new home.

d. Assistance for transitional housing may be provided to applicants who are displaced from their home during a period of repairs related to a disaster, vandalism, home accident, or other reason that makes staying in the home hazardous to the health of the residents. Any refunded security deposits paid for under this subrule shall be returned to the Iowa veterans trust fund.

e. The maximum amount that may be paid under this subrule for any consecutive 12-month period may not exceed \$2,500 for vehicle repair, \$3,000 for housing repair, and \$1,000 for transitional housing. Lifetime maximum benefit for housing repair and vehicle repair: \$10,000 each.

f. The commission shall not pay a reimbursement under this subrule if the available liquid assets of the veteran are in excess of ~~\$3,000~~ \$15,000.

14.4(9) *Expenses related to establishing whether a minor child is a dependent of a deceased veteran.*

a. The commission may provide assistance to the family of veterans who are killed while serving on active federal service, for expenses related to paternity or maternity tests or the cost of procuring additional DNA samples from the deceased veteran. This assistance is available to determine whether a child is eligible for United States Department of Veterans Affairs war orphan benefits.

b. Applicants are required to provide the results of the paternity or maternity examinations to the commission upon completion of the tests. Where the deceased veteran is not the parent of the child, the applicant will be required to repay the assistance received as provided in 801—14.6(35A).

c. The maximum amount that may be paid under this subrule is \$2,500.

d. The commission may waive the income threshold for this benefit.

14.4(10) *Family support group programs or programs for children of members of the military.*

a. The commission may award grants to unit family readiness/support groups, family support offices, and other such organizations providing support and programs to families and children of family members.

b. The grant shall be only for projects or programs which are not funded from any other source. The commission shall determine if the applicant's proposed project or program will provide the intended support. In making its determination, the commission shall consider whether the proposed program will provide anticipated favorable results.

c. The maximum amount of aid payable in a consecutive 12-month period under this subrule to a family readiness/support group is \$500.

14.4(11) *Honor guard services.*

a. The commission may reimburse veterans organizations for providing military funeral honors as follows:

(1) If a single veterans organization provides basic honors, \$25.

(2) If a single veterans organization provides full honors, \$50.

(3) If two or more veterans organizations participate in providing full honors and one of the organizations provides a firing detail, \$50. The organizations may request that the commission split the reimbursement.

(4) If two or more veterans organizations participate in providing basic honors, \$25. Payment shall be to one veterans organization, as determined by the commission.

b. Notwithstanding paragraph 14.4(11)“a,” the commission shall not reimburse a veterans organization if federal funding is available to reimburse the veterans organization for providing military funeral honors. The veterans organization shall request reimbursement from federal sources. If a veterans organization receives federal funding for providing military funeral honors at the reimbursement rate of one funeral per day, the department shall reimburse the organization for the provision of military funeral honors at any additional funerals on that day.

c. The maximum amount of aid payable in a calendar year under this subrule to a veterans organization is \$1000.

d. Veterans service organizations that are not currently providing honor guard services may apply for a \$500, up-front grant, for the use of creating a new honor guard within their organization. Applicants must present the commission with an estimated cost for purchasing uniforms and firearms for providing

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military honors and an estimated number of members who will be available to perform honor guard services. Organizations should also provide information regarding how they plan to pay for additional expenses that may occur outside of trust fund assistance. Applicants will be eligible for reimbursements under paragraphs 14.4(11) "a" to "c" 12 months after the receipt of their original \$500 grant.

14.4(12) Matching funds to veterans service organizations to provide for accredited veteran service officers.

a. The commission may provide matching funds to veterans service organizations for maintaining accredited veteran service officers located at the Des Moines Veterans Affairs Regional Office.

b. Funding for all service organizations combined is available in an amount of up to 20 percent of the interest and earnings on the trust fund balance during the fiscal year or \$150,000, whichever is less.

c. Service organizations requesting funding from the trust fund must provide financial data on the level of organizational funding for the staffing and operation of an office in the Des Moines Veterans Affairs Regional Office. Of the available amount outlined in this subrule, assistance will be split evenly among the service organizations eligible for the trust fund assistance. If the service organization's expenditures are less than ~~their~~ its share of the grant, the grant amount will be reduced to the amount of ~~their~~ the organization's previous fiscal year's expenditures.

d. Service organizations will be required to maintain the same level of expenditures in the year they receive funding as in the previous year. Funding will be recaptured by the treasurer of the state of Iowa if this funding is used to supplant funding from an individual veterans service organization. Trust fund assistance will not be included in future fiscal year maintenance of effort requirements. A report on the previous fiscal year's expenditures will be required to determine the maintenance of effort for the organization.

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