



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XLII
November 6, 2019

NUMBER 10
Pages 1037 to 1118

CONTENTS IN THIS ISSUE

Pages 1045 to 1118 include **ARC 4735C** to **ARC 4761C**

ADMINISTRATIVE SERVICES

DEPARTMENT[11]

- Notice, Procurements from targeted small businesses, 117.5(2), 117.15, 118.5
ARC 4735C 1045

ALL AGENCIES

- Agency identification numbers 1043
Citation of administrative rules 1039
Schedule for rule making 1040

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

- Notice, Dental assistant registration examination—elimination of remediation requirement, 20.2, 20.5(2), 20.11 to 20.17, 22.5 **ARC 4741C** 1047
Filed, Prohibited grounds for discipline—default or delinquency on student loan debt or service obligation, 6.9(2)“i,” 11.11, 14.4, 20.13, 29.15(6), 30.5; rescind ch 34 **ARC 4747C** 1086
Filed, Teledentistry, 27.12, 27.13 **ARC 4748C**... 1088
Filed, Military service and veteran reciprocity for licensing, amendments to ch 52 **ARC 4749C** 1091

ECONOMIC DEVELOPMENT

AUTHORITY[261]

- Notice, Targeted jobs withholding tax credit program—rescission of sunset date for entering into a withholding agreement, 71.4(2) **ARC 4737C** 1050

HUMAN SERVICES DEPARTMENT[441]

- Notice, Statewide monthly standard deduction for personal care services at a residential care facility, 75.1(35)“g”(2)
ARC 4738C 1051
Notice, Case management services, 78.27(6)“a,” 78.37(17)“a,” 78.43(1)“a,” 83.22(2)“a,” ch 90 **ARC 4739C** 1053
Notice, Nursing facilities—calculation of depreciation, leasing arrangements, Iowa Medicaid Enterprise, 81.6, 81.10, 81.13 **ARC 4740C** 1064
Filed, Public assistance program evaluation, amendments to ch 13
ARC 4750C 1093
Filed, Medical assistance—forms, 79.3(2)“d,” 79.8(1)“c,” 80.2(2)“b,” 81.6(16)“g”(9) **ARC 4751C** 1097
Filed, Child care centers—preinspection visits, regulatory fees, 109.2, 109.3
ARC 4752C 1099
Filed, Child abuse mandatory reporter training for child care providers, 109.7, 110.9, 110.10(1), 120.10 **ARC 4753C** 1101

IOWA PUBLIC INFORMATION BOARD[497]

- Filed, Board actions; exempt sessions, 2.2(4), 8.3 **ARC 4754C** 1103

NURSING BOARD[655]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

- Notice, Child abuse and dependent adult abuse mandatory reporter training; wallet cards; Internet-based test of English as a foreign language, 3.1, 3.6(2)“c,” 3.7 **ARC 4743C** 1067

NURSING BOARD[655] (Cont'd)

Notice, Continuing education; child abuse and dependent adult abuse mandatory reporter training, 5.2 ARC 4744C	1070
Filed, Prohibited grounds for discipline—default or delinquency on student loan debt or service obligation, 4.9 ARC 4755C	1105
Filed, Nonpayment of student loan debt, amendments to ch 17 ARC 4756C	1106
Filed, Reciprocity—expedited licensure for spouse of active duty member of military forces, amendments to ch 18 ARC 4757C	1108

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Notice, Marital and family therapists and mental health counselors—licensure, amendments to ch 31 ARC 4745C	1072
Notice, Marital and family therapists and mental health counselors—continuing education, mandatory reporter training, 32.1 to 32.3 ARC 4746C	1076
Notice, Chiropractic physicians—child abuse and dependent adult abuse mandatory reporter training, 41.8(4) ARC 4742C	1079

PUBLIC HEARINGS

Summarized list	1041
-----------------------	------

TRANSPORTATION DEPARTMENT[761]

Notice, Special registration plates—blackout plates, electronic submission of applications, amendments to ch 401 ARC 4736C	1081
Filed, License sanctions—student loan debt, 400.45, 615.17, 615.24, 615.29, 615.45(1) ARC 4758C	1110
Filed, Minors' school licenses—driving distance between residence and school, 602.2, 602.26 ARC 4759C	1112
Filed, OWI and implied consent, amendments to ch 620 ARC 4760C	1114

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Filed, Veterans trust fund, 14.4(12) ARC 4761C	1117
---	------

PREFACE

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

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

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

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

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

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

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

CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rule Making 2019

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. 26 '18	Jan. 16 '19	Feb. 5 '19	Feb. 20 '19	Feb. 22 '19	Mar. 13 '19	Apr. 17 '19	July 15 '19
Jan. 11	Jan. 30	Feb. 19	Mar. 6	Mar. 8	Mar. 27	May 1	July 29
Jan. 25	Feb. 13	Mar. 5	Mar. 20	Mar. 22	Apr. 10	May 15	Aug. 12
Feb. 8	Feb. 27	Mar. 19	Apr. 3	Apr. 5	Apr. 24	May 29	Aug. 26
Feb. 22	Mar. 13	Apr. 2	Apr. 17	Apr. 19	May 8	June 12	Sep. 9
Mar. 8	Mar. 27	Apr. 16	May 1	May 3	May 22	June 26	Sep. 23
Mar. 22	Apr. 10	Apr. 30	May 15	**May 15**	June 5	July 10	Oct. 7
Apr. 5	Apr. 24	May 14	May 29	May 31	June 19	July 24	Oct. 21
Apr. 19	May 8	May 28	June 12	June 14	July 3	Aug. 7	Nov. 4
May 3	May 22	June 11	June 26	**June 26**	July 17	Aug. 21	Nov. 18
May 15	June 5	June 25	July 10	July 12	July 31	Sep. 4	Dec. 2
May 31	June 19	July 9	July 24	July 26	Aug. 14	Sep. 18	Dec. 16
June 14	July 3	July 23	Aug. 7	Aug. 9	Aug. 28	Oct. 2	Dec. 30
June 26	July 17	Aug. 6	Aug. 21	**Aug. 21**	Sep. 11	Oct. 16	Jan. 13 '20
July 12	July 31	Aug. 20	Sep. 4	Sep. 6	Sep. 25	Oct. 30	Jan. 27 '20
July 26	Aug. 14	Sep. 3	Sep. 18	Sep. 20	Oct. 9	Nov. 13	Feb. 10 '20
Aug. 9	Aug. 28	Sep. 17	Oct. 2	Oct. 4	Oct. 23	Nov. 27	Feb. 24 '20
Aug. 21	Sep. 11	Oct. 1	Oct. 16	Oct. 18	Nov. 6	Dec. 11	Mar. 9 '20
Sep. 6	Sep. 25	Oct. 15	Oct. 30	**Oct. 30**	Nov. 20	Dec. 25	Mar. 23 '20
Sep. 20	Oct. 9	Oct. 29	Nov. 13	**Nov. 13**	Dec. 4	Jan. 8 '20	Apr. 6 '20
Oct. 4	Oct. 23	Nov. 12	Nov. 27	Nov. 29	Dec. 18	Jan. 22 '20	Apr. 20 '20
Oct. 18	Nov. 6	Nov. 26	Dec. 11	**Dec. 11**	Jan. 1 '20	Feb. 5 '20	May 4 '20
Oct. 30	Nov. 20	Dec. 10	Dec. 25	**Dec. 26**	Jan. 15 '20	Feb. 19 '20	May 18 '20
Nov. 13	Dec. 4	Dec. 24	Jan. 8 '20	**Jan. 8 '20**	Jan. 29 '20	Mar. 4 '20	June 1 '20
Nov. 29	Dec. 18	Jan. 7 '20	Jan. 22 '20	Jan. 24 '20	Feb. 12 '20	Mar. 18 '20	June 15 '20
Dec. 11	Jan. 1 '20	Jan. 21 '20	Feb. 5 '20	Feb. 7 '20	Feb. 26 '20	Apr. 1 '20	June 29 '20
Dec. 26	Jan. 15 '20	Feb. 4 '20	Feb. 19 '20	Feb. 21 '20	Mar. 11 '20	Apr. 15 '20	July 13 '20

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
12	Wednesday, November 13, 2019	December 4, 2019
13	Friday, November 29, 2019	December 18, 2019
14	Wednesday, December 11, 2019	January 1, 2020

PLEASE NOTE:

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

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

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Procurements from targeted small businesses, 117.5(2), 117.15, 118.5 IAB 11/6/19 ARC 4735C	Procurement Conference Room, A Level Hoover State Office Bldg. Des Moines, Iowa	November 26, 2019 10 to 11 a.m.
--	---	------------------------------------

CHIEF INFORMATION OFFICER, OFFICE OF THE[129]

Vendor appeals, ch 11 IAB 10/23/19 ARC 4730C	OCIO Innovation Lab A Level, Room 12 Hoover State Office Bldg. Des Moines, Iowa	November 12, 2019 1 to 2 p.m.
Procurement of information technology, ch 10 IAB 10/23/19 ARC 4711C	OCIO Innovation Lab A Level, Room 12 Hoover State Office Bldg. Des Moines, Iowa	November 12, 2019 1 to 2 p.m.
Waivers, ch 7 IAB 10/23/19 ARC 4710C	OCIO Innovation Lab A Level, Room 12 Hoover State Office Bldg. Des Moines, Iowa	November 12, 2019 1 to 2 p.m.
Information technology governance, ch 8 IAB 10/23/19 ARC 4712C	OCIO Innovation Lab A Level, Room 12 Hoover State Office Bldg. Des Moines, Iowa	November 12, 2019 1 to 2 p.m.

NURSING BOARD[655]

Child abuse and dependent adult abuse mandatory reporter training; wallet cards; Internet-based test of English as a foreign language, 3.1, 3.6(2)“c,” 3.7 IAB 11/6/19 ARC 4743C	Board Office, Suite B 400 S.W. 8th St. Des Moines, Iowa	December 6, 2019 9 to 10 a.m.
Continuing education; child abuse and dependent adult abuse mandatory reporter training, 5.2 IAB 11/6/19 ARC 4744C	Board Office, Suite B 400 S.W. 8th St. Des Moines, Iowa	December 6, 2019 9 to 10 a.m.

PROFESSIONAL LICENSURE DIVISION[645]

Marital and family therapists and mental health counselors—licensure, amendments to ch 31 IAB 11/6/19 ARC 4745C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	November 26, 2019 8:30 to 9 a.m.
Marital and family therapists and mental health counselors—continuing education, mandatory reporter training, 32.1 to 32.3 IAB 11/6/19 ARC 4746C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	November 26, 2019 8:30 to 9 a.m.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Chiropractic physicians—child abuse and dependent adult abuse mandatory reporter training, 41.8(4) IAB 11/6/19 ARC 4742C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	November 26, 2019 8 to 8:30 a.m.
Massage therapists—child and dependent adult abuse mandatory reporter training, 131.8(4) IAB 10/23/19 ARC 4726C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	November 13, 2019 9 to 9:30 a.m.
Social workers—continuing education, child and dependent adult abuse mandatory reporter training, 280.9(3), 281.1, 281.3(2) IAB 10/23/19 ARC 4727C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	November 12, 2019 8 to 8:30 a.m.

TRANSPORTATION DEPARTMENT[761]

Special registration plates—blackout plates, electronic submission of applications, amendments to ch 401 IAB 11/6/19 ARC 4736C	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	December 3, 2019 10 a.m. (If requested)
Electronic replacement of driver's license or nonoperator's identification card, 602.2(4), 605.11, 630.3 IAB 10/23/19 ARC 4715C	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	November 14, 2019 10 a.m. (If requested)

The following list will be updated as changes occur.

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

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

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

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

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

ARC 4735C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Notice of Intended Action

Proposing rule making related to procurements from targeted small businesses and providing an opportunity for public comment

The Administrative Services Department hereby proposes to amend Chapter 117, "Procurement of Goods and Services of General Use," and Chapter 118, "Purchasing Standards for Service Contracts," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 8A.104 and 8A.311.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, House File 485.

Purpose and Summary

The Department of Administrative Services proposes these rule amendments as a result of 2019 Iowa Acts, House File 485, which addresses state purchasing requirements relating to Targeted Small Business procurement goals. 2019 Iowa Acts, House File 485, gives the Department authority to set a Targeted Small Business spending threshold, by rule, not to exceed \$25,000. The amendments, in part, propose setting the spending threshold at \$25,000. The amendments also detail reporting requirements for state agencies to the Department regarding Targeted Small Business procurement.

Fiscal Impact

The Iowa Economic Development Authority reports that the fiscal impact of these amendments is indeterminable.

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 26, 2019. Comments should be directed to:

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

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Public Hearing

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

November 26, 2019
10 to 11 a.m.

Procurement Conference Room, A Level
Hoover State Office Building
1305 East Walnut Street
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend 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~~ \$25,000 if the purchase would contribute to the agency complying with the targeted small business procurement goals under Iowa Code sections 73.15 through 73.21.

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

c. Reporting requirements for TSB procurement. By December 1 of each year, each agency shall provide the department with an annual report of procurements made in the previous fiscal year pursuant to paragraph 117.5(2) "a." The annual report will be in a format prescribed by the department.

ITEM 2. Amend subrule 117.15(3) as follows:

117.15(3) Preference to targeted small businesses. Agencies shall search the TSB directory on the Iowa economic development authority's website and may purchase a good or service directly from the TSB source if the cost is equal to or less than the spending limit set forth in ~~Iowa Code section 8A.311(10).~~ paragraph 117.5(2) "a." Agencies shall comply with the TSB notification requirements in subrule 117.8(2).

ITEM 3. Amend subrule 117.15(4) as follows:

117.15(4) Misuse of agency authority.

a. Purchasing authority delegated to agencies shall not be used to avoid the use of master agreements. The agency shall not break purchasing into smaller increments for the purpose of avoiding threshold requirements in ~~subrules~~ subrule 117.5(2), 117.15(1) and or 117.15(2).

b. As a remedy, the department may recover administrative fees appropriate to the improper execution of procurement.

c. This rule is not intended to prohibit agencies from aggressively seeking competitive prices. Agencies may purchase outside of master agreements under subrule 117.4(1).

d. The department may rescind delegated authority of an agency that misuses its authority or uses the authority to procure goods or services already available on a master agreement.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

e. This rule does not prohibit agencies from dividing procurements into contract award units of economically feasible production runs to facilitate offers or bids from targeted small businesses consistent with subrule 117.5(2) and Iowa Code section 73.17(1).

ITEM 4. Amend rule 11—118.5(8A), introductory paragraph, as follows:

11—118.5(8A) Use of competitive selection. State agencies may procure non-master agreement services from private entities without competition when the estimated value does not exceed \$5,000. Agencies shall use competitive selection to acquire services from private entities when the estimated annual value of the service contract is greater than \$5,000 or when the estimated value of the multiyear service contract in the aggregate, including any renewals, is greater than \$15,000 unless there is adequate justification for a sole source or emergency procurement pursuant to rule 11—118.7(8A) or emergency procurement pursuant to rule 11—118.8(8A) or unless awarded to a targeted small business pursuant to 11—paragraph 117.5(2)“a” or procured pursuant to another exception to competitive selection under another provision of law.

ARC 4741C

DENTAL BOARD[650]

Notice of Intended Action

Proposing rule making related to dental assistant remediation requirements and providing an opportunity for public comment

The Dental Board hereby proposes to amend Chapter 20, “Dental Assistants,” and Chapter 22, “Dental Assistant Radiography Qualification,” 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 section 153.39.

Purpose and Summary

The proposed amendments update examination requirements to better reflect the needs of applicants for dental assistant registration in the state of Iowa and to reduce barriers of entry to the job market. Current rules require prospective dental assistants who twice fail required examinations in the areas of jurisprudence, infection control and radiography to submit proof of formal education in the area of examination failure through a program approved by the Board or a school accredited by the Commission on Dental Accreditation. This remedial education is required before the applicant can test a third time. Remediation can be difficult for some dental assistant applicants to complete due to a lack of local options available or due to cost of the training.

The Board wants to be responsive to this issue by eliminating formal remediation requirements. Prospective dental assistants who fail the exam have the ability to review study materials issued by the Board, which provides the opportunity for self-remediation. Further, dental assistant trainees work under the personal supervision of a dentist, which provides safeguards to the public.

Fiscal Impact

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

DENTAL BOARD[650](cont'd)

Jobs Impact

After analysis and review of this rule making, a positive impact on jobs has been found, because the remediation requirement delays entry into the job market.

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 rule 650—7.4(17A,147,153).

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 December 20, 2019. Comments should be directed to:

Steve Garrison
Iowa Dental Board
400 S.W. Eighth Street, Suite D
Des Moines, Iowa 50309
Phone: 515.281.3248
Fax: 515.281.7969
Email: steven.garrison@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 **650—20.2(153)**, definition of “Public health supervision,” as follows:

“*Public health supervision*” means all of the following:

1. The dentist authorizes and delegates the services provided by a registered dental assistant to a patient in a public health setting, with the exception that services may be rendered without the patient’s first being examined by a licensed dentist;
2. The dentist is not required to provide future dental treatment to patients served under public health supervision;
3. The dentist and the registered dental assistant have entered into a written supervision agreement that details the responsibilities of each licensee/registrant, as specified in subrule ~~20.16(2)~~ 20.15(2); and
4. The registered dental assistant has an active Iowa registration and a minimum of one year of clinical practice experience.

ITEM 2. Amend subrule 20.5(2) as follows:

20.5(2) Dental assistant trainee. Dental assistant trainees are all individuals who are engaging in on-the-job training to meet the requirements for registration and who are learning the necessary skills

DENTAL BOARD[650](cont'd)

under the personal supervision of a licensed dentist. Trainees may also engage in on-the-job training in dental radiography pursuant to rule 650—22.3(136C,153).

a. General requirements. The dental assistant trainee shall meet the following requirements:

(1) Successfully complete a course of study and examination in the areas of infection control, hazardous materials, and jurisprudence. The course of study shall be prior approved by the board and sponsored by a board-approved postsecondary school.

(2) If a trainee fails to become registered by the trainee status expiration date, the trainee must stop work as a dental assistant trainee. If the trainee has not yet met the requirements for registration, the trainee may reapply for trainee status but may not work until a new dental assistant trainee status certificate has been issued by the board.

b. Trainee restart.

(1) Reapplying for trainee status. A trainee may “start over” as a dental assistant trainee provided the trainee submits an application in compliance with subrule 20.6(1).

(2) Examination scores valid for three years. A “repeat” trainee is not required to retake an examination (jurisprudence, infection control/hazardous materials, radiography) if the trainee has successfully passed the examination within three years of the date of application. ~~If a trainee has failed two or more examinations, the trainee must satisfy the remedial education requirements in subrule 20.11(1). The trainee status application will not be approved until the trainee successfully completes any required remedial education.~~

(3) New trainee status expiration date issued. If the repeat trainee application is approved, the board office will establish a new trainee status expiration date by which registration must be completed.

(4) Maximum of two “start over” periods allowed. In addition to the initial 12-month trainee status period, a dental assistant is permitted up to two start over periods as a trainee. If a trainee seeks an additional start over period beyond two, the trainee shall submit a petition for rule waiver under 650—Chapter 7.

c. Trainees enrolled in cooperative education or work study programs. The requirements stated in this subrule apply to all dental assistant trainees, including a person enrolled in a cooperative education or work-study program through an Iowa high school. In addition, a trainee under 18 years of age shall not participate in dental radiography.

ITEM 3. Rescind rule **650—20.11(153)**.

ITEM 4. Renumber rules **650—20.12(153)** to **650—20.17(153)** as **650—20.11(153)** to **650—20.16(153)**.

ITEM 5. Amend rule 650—22.5(136C,153) as follows:

650—22.5(136C,153) Examination requirements. An applicant for dental assistant radiography qualification shall successfully pass a board-approved examination in dental radiography.

22.5(1) Examinations must be prior approved by the board and must be administered in a proctored setting. All board-approved examinations must have a minimum of 50 questions. The Dental Assisting National Board Radiation Health and Safety Examination is an approved examination.

22.5(2) A score of 75 percent or better on a board-approved examination shall be considered successful completion of the examination. The board accepts the passing standard established by the Dental Assisting National Board for applicants who take the Dental Assisting National Board Radiation Health and Safety Examination.

22.5(3) Information on taking a board-approved examination may be obtained by contacting the board office at 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687.

22.5(4) A dental assistant must meet such other requirements as may be imposed by the board’s approved dental assistant testing centers.

~~**22.5(5)** A dental assistant who fails to successfully complete a board-approved examination after two attempts will be required to submit, prior to each subsequent examination attempt, proof of additional formal education in dental radiography in a program approved by the board or sponsored by a school accredited by the Commission on Dental Accreditation of the American Dental Association.~~

ARC 4737C**ECONOMIC DEVELOPMENT AUTHORITY[261]****Notice of Intended Action****Proposing rule making related to rescinding the sunset date for the targeted jobs withholding tax credit program and providing an opportunity for public comment**

The Economic Development Authority hereby proposes to amend Chapter 71, “Targeted Jobs Withholding Tax Credit Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 403.19A.

Purpose and Summary

This rule making proposes to amend 261—Chapter 71 by rescinding paragraph 71.4(2)“e,” which contains the sunset date for the Targeted Jobs Withholding Tax Credit Program. This sunset date is also found in Iowa Code section 403.19A(3)“c”(2) as amended by 2019 Iowa Acts, House File 779, section 45. Because the sunset date has been amended legislatively and may be extended again in the future, rescinding this paragraph will prevent confusion and conflict between the Iowa Code and these 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

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

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 26, 2019. Comments should be directed to:

Jennifer Klein
Economic Development Authority
200 East Grand Avenue
Des Moines, Iowa 50309
Phone: 515.348.6144
Email: jennifer.klein@iowaeda.com

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

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend subrule 71.4(2) as follows:

71.4(2) Entering into a withholding agreement.

a. to d. No change.

~~*e.*—*Sunset date.* A pilot project city and the authority shall not enter into a withholding agreement with a business after June 30, 2019.~~

f. e. *Board approval of withholding agreements.* Prior to entering into a withholding agreement with a business, a pilot project city shall request board approval of the withholding agreement. The process for requesting approval from the board is described in subrule 71.5(1).

ARC 4738C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to the monthly standard deduction for personal care services at a residential care facility and providing an opportunity for public comment

The Department of Human Services hereby proposes to amend Chapter 75, "Conditions of Eligibility," 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 249.12.

Purpose and Summary

This proposed rule making will continue to allow an annual change in the statewide monthly standard deduction for personal care services provided in a licensed residential care facility (RCF) based on the Consumer Price Index (CPI) for All Urban Consumers. This annual change continues to benefit medically needy members who reside in licensed RCFs because it continues to allow personal care needs to be applied to the spenddown obligation.

Fiscal Impact

There is minimal fiscal impact expected as a result of this rule making.

Jobs Impact

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 26, 2019. Comments should be directed to:

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

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 subparagraph **75.1(35)“g”(2)** as follows:

(2) Order of deduction. Spenddown shall be adjusted when a bill for a Medicaid-covered service incurred during the certification period has been applied to meet spenddown if a bill for a covered service incurred prior to the certification period is subsequently received. Spenddown shall also be adjusted when a bill for a noncovered Medicaid service is subsequently received with a service date prior to the Medicaid-covered service. Spenddown shall be adjusted when an unpaid bill for a Medicaid-covered service incurred during the certification period has been applied to meet spenddown if a paid bill for a covered service incurred in the certification period is subsequently received with a service date prior to the date of the notice of spenddown status.

If spenddown has been met and a bill is received with a service date after spenddown has been met, the bill shall not be deducted to meet spenddown.

Incurred medical expenses, including those reimbursed by a state or political subdivision program other than Medicaid, but excluding those otherwise subject to payment by a third party, shall be deducted in the following order:

1. Medicare and other health insurance premiums, deductibles, or coinsurance charges.

EXCEPTION: When some of the household members are eligible for full Medicaid benefits under the Health Insurance Premium Payment Program (HIPP), as provided in rule 441—75.21(249A), the health insurance premium shall not be allowed as a deduction to meet the spenddown obligation of those persons in the household in the medically needy coverage group.

HUMAN SERVICES DEPARTMENT[441](cont'd)

2. An average statewide monthly standard deduction for the cost of medically necessary personal care services provided in a licensed residential care facility shall be allowed as a deduction for spenddown. These personal care services include assistance with activities of daily living such as preparation of a special diet, personal hygiene and bathing, dressing, ambulation, toilet use, transferring, eating, and managing medication.

The average statewide monthly standard deduction for personal care services shall be based on the average per day rate of health care costs associated with residential care facilities participating in the state supplementary assistance program for a 30.4-day month as computed in the Compilation of Various Costs and Statistical Data (Category: All; Type of Care: Residential Care Facility; Location: All; Type of Control: All) by multiplying the previous year's average per day rate by the inflation factor increase during the preceding calendar year ending December 31 of the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics. ~~The average statewide standard deduction for personal care services used in the medically needy program shall be updated and effective the first day of the first month beginning two full months after the release of the Compilation of Various Costs and Statistical Data for the previous fiscal year.~~

3. Medical expenses for necessary medical and remedial services that are recognized under state law but not covered by Medicaid, chronologically by date of submission.

4. Medical expenses for acupuncture, chronologically by date of submission.

5. Medical expenses for necessary medical and remedial services that are covered by Medicaid, chronologically by date of submission.

ARC 4739C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rule making related to case management services
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," and Chapter 83, "Medicaid Waiver Services," and to rescind Chapter 90, "Targeted Case Management," and adopt a new Chapter 90, "Case Management 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.

Purpose and Summary

This rule making proposes to adopt a new Chapter 90 that clarifies the case management service activities received by various populations in the Medicaid program and includes a definition of and references to a core standardized assessment (CSA) as required under the Balancing Incentive Program (BIP). BIP was created as part of the federal Patient Protection and Affordable Care Act. Participation by Iowa is required by 2012 Iowa Acts, chapter 1133, section 14, and 2013 Iowa Acts, chapter 138, section 142(20). In addition, new Chapter 90 outlines and requires billable activities for fee-for-service members, includes a requirement for provider reporting of minor incidents, and includes the person-centered service planning definition and service requirements. Updates to cross-reference citations in other chapters that are affected by this rule making are also proposed.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, 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 26, 2019. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

- ITEM 1. Amend paragraph **78.27(6)“a”** as follows:
- a. *Scope.* Case management services shall be provided as set forth in rules ~~441—90.5(249A) and 441—90.8(249A)~~ 441—90.4(249A) through 441—90.7(249A).
- ITEM 2. Amend paragraph **78.37(17)“a”** as follows:
- a. Case management services shall be provided as set forth in rules ~~441—90.5(249A) and 441—90.8(249A)~~ 441—90.4(249A) through 441—90.7(249A).
- ITEM 3. Amend paragraph **78.43(1)“a”** as follows:
- a. Case management services shall be provided as set forth in rules ~~441—90.5(249A) and 441—90.8(249A)~~ 441—90.4(249A) through 441—90.7(249A).

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 4. Rescind and reserve paragraph **83.22(2)“a.”**

ITEM 5. Rescind 441—Chapter 90 and adopt the following **new** chapter in lieu thereof:

CHAPTER 90
CASE MANAGEMENT SERVICES

PREAMBLE

Case management services are designed to ensure the health, safety, and welfare of members by assisting them in gaining access to appropriate and necessary medical services and interrelated social, educational, housing, transportation, vocational, and other services. The term “case management” encompasses targeted case management, case management provided to members enrolled in a 1915(c) waiver, community-based case management provided through managed care, and integrated health home (IHH) care coordination.

441—90.1(249A) Definitions.

“*Adult*” means a person 18 years of age or older on the first day of the month in which service begins.

“*Care coordination*” means the case management services provided by an integrated health home to members who are also receiving home- and community-based habilitation services pursuant to rule 441—78.27(249A) or HCBS children’s mental health waiver services pursuant to rules 441—83.121(249A) through 441—83.129(249A).

“*Case manager*” means the staff person providing case management services regardless of the entity providing the service or the program in which the member is enrolled.

“*Child*” means a person other than an adult.

“*Chronic mental illness*” means a condition present in adults who have a persistent mental or emotional disorder that seriously impairs their functioning relative to such primary aspects of daily living as personal relations, living arrangements, or employment. The definition of chronic mental illness and qualifying criteria are found at rule 441—24.1(225C). For purposes of this chapter, people with mental disorders resulting from Alzheimer’s disease or substance abuse shall not be considered chronically mentally ill.

“*Community-based case manager*” means the employee of a Medicaid-contracted managed care organization (MCO) who provides case management services to MCO-enrolled members.

“*Core standardized assessment*” or “*CSA*” means an assessment instrument for determining the suitability of non-institutionally based long-term services and supports for an individual. The instrument shall be used in a uniform manner throughout the state to determine an applicant’s or member’s needs for training, support services, medical care, transportation, and other services and to develop an individual service plan to address such needs. The core standardized assessment shall be performed by a contractor under the direction of the department for the fee-for-service population. MCOs shall perform core standardized assessments for MCO-enrolled members.

“*Department*” means the department of human services.

“*Developmental disability*” means a severe, chronic disability that is determined through professionally administered screening and evaluations and that:

1. Is attributable to a mental or physical impairment or combination of mental and physical impairments;
2. Is manifested before the age of 22;
3. Is likely to continue indefinitely;
4. Results in substantial functional limitations in three or more of the following areas of major life activity: (a) self-care, (b) receptive and expressive language, (c) learning, (d) mobility, (e) self-direction, (f) capacity for independent living, and (g) economic self-sufficiency; and
5. Reflects the person’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

HUMAN SERVICES DEPARTMENT[441](cont'd)

“Fee-for-service member” or *“FFS member”* means a member who is not enrolled with a managed care organization because the member is exempt from managed care organization enrollment.

“Home- and community-based services” or *“HCBS”* means services provided pursuant to Sections 1915(c) and 1915(i) of the Social Security Act.

“Integrated health home” or *“IHH”* means a provider of health home services that is a Medicaid-enrolled provider and that is determined through the provider enrollment process to have the qualifications, systems and infrastructure in place to provide IHH services pursuant to rule 441—77.47(249A). IHH covered services and member eligibility for IHH enrollment are governed by rule 441—78.53(249A). The IHH provides case management services for enrolled IHH members.

“Intellectual disability” means a diagnosis of intellectual disability (intellectual developmental disorder), global developmental delay, or unspecified intellectual disability (intellectual developmental disorder). Diagnosis criteria are outlined in rule 441—83.61(249A).

“Major incident” means an occurrence that involves a member who is enrolled in an HCBS waiver, targeted case management, or habilitation services and that:

1. Results in a physical injury to or by the member that requires a physician’s treatment or admission to a hospital;
2. Results in the death of any person;
3. Requires emergency mental health treatment for the member;
4. Requires the intervention of law enforcement;
5. Requires a report of child abuse pursuant to Iowa Code section 232.69, a report of dependent adult abuse pursuant to Iowa Code section 235B.3, or a report of elder abuse pursuant to Iowa Code chapter 235F; or
6. Involves a member’s location being unknown by provider staff who are responsible for protective oversight.

“Managed care organization” or *“MCO”* means the same as defined in rule 441—73.1(249A).

“Medical institution” means an institution that is organized, staffed, and authorized to provide medical care as set forth in the most recent amendment to 42 Code of Federal Regulations Section 435.1009. A residential care facility is not a medical institution.

“Member” means a person who has been determined to be eligible for Medicaid under 441—Chapter 75.

“Minor incident” means an occurrence that involves a member who is enrolled in an HCBS waiver, targeted case management, or habilitation services and that is not a major incident but that:

1. Results in the application of basic first aid;
2. Results in bruising;
3. Results in seizure activity;
4. Results in injury to self, to others, or to property; or
5. Constitutes a prescription medication error.

“Person-centered service plan” or *“service plan”* means a service plan created through the person-centered planning process, directed by the member with long-term care needs or the member’s guardian or family, to identify the member’s strengths, capabilities, preferences, needs, and desired outcomes.

“Rights restriction” means limitations not imposed on the general public in the areas of communication, mobility, finances, medical or mental health treatment, intimacy, privacy, type of work, religion, place of residence, and people with whom a member may share a residence.

“Targeted case management” means case management services furnished to assist members who are part of a targeted population.

“Targeted population” means people who meet one of the following criteria:

1. An adult who is identified with a primary diagnosis of intellectual disability, chronic mental illness, or developmental disability; or
2. A child who is eligible to receive HCBS intellectual disability waiver services or HCBS children’s mental health waiver services according to 441—Chapter 83.

HUMAN SERVICES DEPARTMENT[441](cont'd)

441—90.2(249A) Targeted case management.

90.2(1) Eligibility for targeted case management. A person who meets all of the following criteria shall be eligible for targeted case management:

- a. The person is eligible for Medicaid or is conditionally eligible under 441—subrule 75.1(35);
- b. The person is a member of a targeted population;
- c. The person resides in a community setting or qualifies for transitional case management as set forth in subrule 90.2(4);
- d. The person has applied for targeted case management in accordance with the policies of the provider;
- e. The person's need for targeted case management has been determined in accordance with rule 441—90.2(249A);
- f. The person is not eligible for, or enrolled in, Medicaid managed care; and
- g. If the person is also receiving HCBS habilitation services pursuant to rule 441—78.27(249A) or HCBS children's mental health waiver services pursuant to rules 441—83.121(249A) through 83.129(249A), the person is not enrolled in an integrated health home pursuant to rule 441—78.53(249A).

90.2(2) Determination of need for targeted case management. Assessment at least every 365 days of the need for targeted case management is required as a condition of eligibility under the medical assistance program. The targeted case management provider shall determine the member's initial and ongoing need for service based on diagnostic reports, documentation of provision of services, and information supplied by the member and other appropriate sources. The evidence shall be documented in the member's file and shall demonstrate that all of the following criteria are met:

- a. The member has a need for targeted case management to manage necessary medical, social, educational, housing, transportation, vocational, and other services for the benefit of the member;
- b. The member has functional limitations and lacks the ability to independently access and sustain involvement in necessary services; and
- c. The member is not receiving, under the medical assistance program or under a Medicaid managed health care plan, other paid benefits that serve the same purpose as targeted case management or integrated health home care coordination.

90.2(3) Application for targeted case management. The provider shall process an application for targeted case management no later than 30 days after receipt of the application. The provider shall refer the applicant to the department's service unit if other services outside the scope of case management are needed or requested.

a. *Application process and documentation.* The application shall include the member's name, the nature of the request for services, and a summary of any evaluation activities completed. For FFS members, the provider shall inform the applicant in writing of the applicant's right to choose the provider of case management services and, at the applicant's request, shall provide a list of other case management services agencies from which the applicant may choose. The provider shall maintain this documentation for at least five years.

b. *Application decision.* The case manager shall inform the applicant, or the applicant's representative, of any decision to approve, deny, or delay the service in accordance with the notification requirements at 441—subrule 7.7(1).

c. *Denial of applications.* The case manager shall deny an application for service when:

- (1) The applicant is not currently eligible for Medicaid;
- (2) The applicant does not meet the eligibility criteria in 441—subrule 90.2(1);
- (3) The applicant, or the applicant's representative, withdraws the application;
- (4) The applicant does not provide information required to process the application;
- (5) The applicant is receiving duplicative targeted case management or integrated health home care coordination from another Medicaid provider; or
- (6) The applicant does not have a need for targeted case management.

90.2(4) Transition to a community setting. Managed care organizations must provide transition services to all enrolled members. Fee-for-service targeted case management services may be provided

HUMAN SERVICES DEPARTMENT[441](cont'd)

to a member transitioning to a community setting during the 60 days before the member's discharge from a medical institution when the following requirements are met:

a. The member is an adult who qualifies for targeted case management and is a member of a targeted population. Transitional case management is not an allowable service for other HCBS programs or populations;

b. Case management services shall be coordinated with institutional discharge planning, but shall not duplicate institutional discharge planning;

c. The amount, duration, and scope of case management services shall be documented in the member's service plan, which must include case management services before and after discharge, to facilitate a successful transition to community living;

d. Payment shall be made only for services provided by Medicaid-enrolled targeted case management providers; and

e. Claims for reimbursement for case management services shall not be submitted until the member's discharge from the medical institution and enrollment in community services.

441—90.3(249A) Termination of targeted case management services.

90.3(1) Targeted case management shall be terminated when:

a. The member does not meet eligibility criteria under rule 441—90.2(249A);

b. The member has achieved all goals and objectives of the service;

c. The member has no ongoing need for targeted case management;

d. The member is receiving targeted case management based on eligibility under an HCBS program but is no longer eligible for the program;

e. The member or the member's representative requests termination;

f. The member is unwilling or unable to accept further services; or

g. The member or the member's representative fails to provide access to information necessary for the development of the service plan or for implementation of targeted case management.

90.3(2) The provider shall notify the member or the member's representative in writing of the termination of targeted case management, in accordance with 441—subrule 7.7(1).

441—90.4(249A) Case management services.

90.4(1) *Covered services.* The following shall be included in case management services provided to members, whether FFS members or MCO-enrolled members:

a. Assessment. Initial comprehensive assessments and regular reassessments must be done for each applicant and member to determine the need for any medical, social, educational, housing, transportation, vocational, or other services. The comprehensive assessments and reassessments shall address all of the applicant's and member's areas of need, strengths, preferences, and risk factors, considering the person's physical and social environment. Applicants and members will receive individualized prior notification of the assessment tool to be used and of who will conduct the assessment. The assessment and reassessment will be done using the core standardized assessment or another tool as designated in 441—Chapter 83 for each population. Initial assessments must be face to face. Reassessments may be either face to face or telephonic dependent upon the assessment tool and population as designated in 441—Chapter 83. A reassessment must be conducted at a minimum every 365 days and more frequently if material changes occur in the member's condition or circumstances. Case managers may participate during the assessment or reassessment process at the request of the member.

b. Person-centered service plan. At least every 365 days, the case manager shall develop and revise a comprehensive, person-centered service plan in collaboration with the member, the member's service providers, and other people identified as necessary by the member, as practicable. The person-centered service plan will be developed based on the comprehensive assessment and shall include a crisis intervention plan based on the risk factors identified in a risk assessment. The case manager shall document the member's history, including current and past information and social history, and shall update the history annually. The case manager shall gather information from other sources

HUMAN SERVICES DEPARTMENT[441](cont'd)

such as family members, medical providers, social workers, representatives, and others as necessary to form a thorough social history and comprehensive person-centered service plan with the member. The person-centered service plan may also be referred to as a person-centered treatment plan.

(1) The person-centered service plan shall address all service plan components outlined in this chapter and in 441—Chapter 83 for the waiver in which the member is enrolled.

(2) Person-centered planning shall be implemented in a manner that supports the member, makes the member central to the process, and recognizes the member as the expert on goals and needs. In order for this to occur, there are certain process elements that must be included in the process. These include:

1. The member or representative must have control over who is included in the planning process, as well as have the authority to request meetings and revise the person-centered service plan (and any related budget) whenever reasonably necessary.

2. The process is timely and occurs at times and locations of convenience to the member, the member's representative and family members, and others, as practicable.

3. Necessary information and support are provided to ensure that the member or the member's representative, or both, are central to the process and understand the information. This includes the provision of auxiliary aids and services when needed for effective communication.

4. A strengths-based approach to identifying the positive attributes of the member shall be used, including an assessment of the member's strengths and needs. The member should be able to choose the specific planning format or tool used for the planning process.

5. The member's personal preferences shall be considered to develop goals and to meet the member's HCBS needs.

6. The member's cultural preferences must be acknowledged in the planning process, and policies/practices should be consistent with the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care (the National CLAS Standards) of the Office of Minority Health, U.S. Department of Health and Human Services.

7. The planning process must provide meaningful access to members and their representatives with limited English proficiency (LEP), including low literacy materials and interpreters.

8. Members who are under guardianship or other legal assignment of individual rights, or who are being considered as candidates for these arrangements, must have the opportunity in the planning process to address any concerns.

9. There shall be mechanisms for solving conflict or disagreement within the process, including clear conflict of interest guidelines.

10. Members shall be offered information on the full range of HCBS available to support achievement of personally identified goals.

11. The member or the member's representative shall be central in determining what available HCBS are appropriate and will be used.

12. The member shall be able to choose between providers or provider entities, including the option of self-directed services when available.

13. The person-centered service plan shall be reviewed at least every 365 days or sooner if the member's functional needs change, circumstances change, or quality of life goals change, or at the member's request. There shall be a clear process for members to request reviews. The case management entity must respond to such requests in a timely manner that does not jeopardize the member's health or safety.

14. The planning process should not be constrained by any case manager's or representative's preconceived limits on the member's ability to make choices.

15. Employment and housing in integrated settings shall be explored, and planning should be consistent with the member's goals and preferences, including where the member resides and with whom the member lives.

(3) Elements of the person-centered service plan. The person-centered service plan shall identify the services and supports that are necessary to meet the member's identified needs, preferences, and quality of life goals. The person-centered service plan shall:

HUMAN SERVICES DEPARTMENT[441](cont'd)

1. Reflect that the setting where the member resides is chosen by the member. The chosen setting must be integrated in, and support full access to, the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community to the same degree of access as individuals not receiving HCBS.

2. Be prepared in person-first singular language and be understandable by the member or the member's representative, or both.

3. Note the strengths-based positive attributes of the member at the beginning of the plan.

4. Identify risks, while considering the member's right to assume some degree of personal risk, and include measures available to reduce risks or identify alternate ways to achieve personal goals.

5. Document goals in the words of the member or the member's representative, or both, with clarity regarding the amount, duration, and scope of HCBS services that will be provided to assist the member. Goals shall consider the quality of life concepts important to the member.

6. Describe the services and supports that will be necessary and specify what HCBS services are to be provided through various resources, including natural supports, to meet the goals in the person-centered service plan.

7. Document the specific person or persons, provider agency and other entities providing services and supports.

8. Ensure the health and safety of the member by addressing the member's assessed needs and identified risks.

9. Document non-paid supports and items needed to achieve the goals.

10. Include the signatures of everyone with responsibility for the plan's implementation, including the member or the member's representative, or both, the case manager, the support broker/agent (when applicable), and providers, and include a timeline for review of the plan. The plan must be discussed with family, friends, and caregivers designated by the member so that they fully understand it and their roles.

11. Identify each person and entity responsible for monitoring the plan's implementation.

12. Identify needed services based upon the assessed needs of the member and prevent unnecessary or inappropriate services and supports not identified in the assessed needs of the member.

13. Document an emergency back-up plan that encompasses a range of circumstances (e.g., weather, housing, and staff).

14. Address elements of self-direction through the consumer choices option (e.g., financial management service, support broker/agent, alternative services) whenever the consumer choices option is chosen.

15. Be distributed directly to all parties involved in the planning process.

c. Referral and related activities. The case manager shall assist, as needed, the member in obtaining needed services, such as by scheduling appointments for the member and by connecting the member with medical, social, educational, housing, transportation, vocational or other service providers or programs that are capable of providing needed services to address identified needs and risk factors and to achieve goals specified in the person-centered service plan.

d. Monitoring and follow-up. The case manager shall perform, as needed, monitoring activities and make contacts that are necessary to ensure the health, safety, and welfare of the member and to ensure that the person-centered service plan is effectively implemented and adequately addresses the needs of the member. At a minimum, monitoring shall include assessing the member, the places of service (including the member's home, when applicable), and all services regardless of the service funding stream. Monitoring shall also include review of service provider documentation. Monitoring of the following aspects of the person-centered service plan shall lead to revisions of the plan if deficiencies are noted:

(1) Services are being furnished in accordance with the member's person-centered service plan, including the amount of service provided and the member's attendance and participation in the service;

(2) The member has declined services in the service plan;

HUMAN SERVICES DEPARTMENT[441](cont'd)

(3) Communication among providers is occurring, as practicable, to ensure coordination of services;

(4) Services in the person-centered service plan are adequate, including the member's progress toward achieving the goals and actions determined in the person-centered service plan; and

(5) There are changes in the needs or circumstances of the member. Follow-up activities shall include making necessary adjustments in the person-centered service plan and service arrangements with providers.

e. Contacts. Case managers shall make contacts with the member, the member's representative, or service providers as frequently as necessary and no less frequently than necessary to meet the following requirements:

(1) The case manager shall have at least one face-to-face contact with the member in the member's residence at least quarterly;

(2) The case manager shall have at least one contact per month with the member or the member's representative. This contact may be face to face or by telephone;

(3) Community-based case management contacts will be made in accordance with the Medicaid contract MED-16-019, or subsequent Medicaid managed care contracts with the department, in those instances where the contract specifies contacts different from this rule.

90.4(2) Exclusions. For all case management services, fee-for-service payment shall not be made for activities otherwise within the definition of case management services when any of the following conditions exist:

a. The activities are an integral component of another covered Medicaid service.

b. The activities constitute the direct delivery of underlying medical, social, educational, housing, transportation, vocational or other services to which a member has been referred. Such services include, but are not limited to:

(1) Services under parole and probation programs;

(2) Public guardianship programs;

(3) Special education programs;

(4) Child welfare and child protective services; or

(5) Foster care programs.

c. The activities are components of the administration of foster care programs, including but not limited to the following:

(1) Research gathering and completion of documentation required by the foster care program;

(2) Assessing adoption placements;

(3) Recruiting or interviewing potential foster care parents;

(4) Serving legal papers;

(5) Conducting home investigations;

(6) Providing transportation related to the administration of foster care;

(7) Administering foster care subsidies; or

(8) Making placement arrangements.

d. The activities for which a member may be eligible are a component of the administration of another nonmedical program, such as a guardianship, child welfare or child protective services, parole, probation, or special education program, except for case management that is included in an individualized education program or individualized family service plan consistent with Section 1903(c) of the Social Security Act.

e. The activities duplicate institutional discharge planning.

441—90.5(249A) Rights restrictions. Any effort to restrict the rights of a member to realize the member's preferences or goals must be justified by a specific individualized assessed safety need and documented in the person-centered service plan. The following requirements must be documented in the plan when a safety need has been identified that warrants a rights restriction:

1. The specific and individualized assessed safety need;

HUMAN SERVICES DEPARTMENT[441](cont'd)

2. The positive interventions and supports used prior to any modifications or additions to the person-centered service plan regarding safety needs;
3. The less intrusive methods of meeting the safety needs that have been tried but were not successful;
4. A clear description of the rights restriction that is directly proportionate to the specific assessed safety need;
5. The regular collection and review of data to measure the ongoing effectiveness of the rights restriction;
6. The established time limits for periodic reviews to determine whether the rights restriction is still necessary or can be terminated;
7. The informed consent of the member to the proposed rights restriction; and
8. An assurance that the rights restriction itself will not cause undue harm to the member.

441—90.6(249A) Documentation and billing.**90.6(1) Documentation of contacts.**

- a. Documentation of case management services contacts shall include:
 - (1) The name of the individual case manager;
 - (2) The need for, and occurrences of, coordination with other case managers within the same agency or referral or transition to another case management agency; and
 - (3) Other requirements as outlined in rule 441—79.3(249A) to support payment of services.
- b. Targeted case management providers serving FFS members must also adhere to 441—subrule 24.4(4).

90.6(2) Rounding units of service for case management services. For all fee-for-service case management units of service, the following rounding process shall be used:

- a. Add together the minutes spent on all billable activities during a calendar day for a daily total;
- b. For each day, divide the total minutes spent on billable activities by 15 to determine the number of full 15-minute units for that day;
- c. Round the remainder using these guidelines: Round 1 to 7 minutes down to zero units; round 8 to 14 minutes up to one unit; and
- d. Add together the number of full units and the number of rounded units to determine the total number of units to bill for that day.

90.6(3) Collateral contacts. For all fee-for-service case management units of service, the case manager may bill for documented contacts with other entities and individuals if the contacts are directly related to the member's needs and care, such as helping the member access services, identifying needs and supports to assist the member in obtaining services, providing other case managers with useful feedback, and alerting other case managers to changes in the member's needs.

90.6(4) Billable activities for case management services. Billable activities for case management services are limited to the following activities, and any activity included in this list must be billed if the activity has occurred.

- a. Face-to-face meeting with the member:
 - (1) Contact time; and
 - (2) Documentation completed during meeting.
- b. Telephone conversation with the member:
 - (1) Contact time; and
 - (2) Documentation completed during meeting.
- c. Collateral contacts on behalf of the member, including face-to-face, the telephone, and email contacts:
 - (1) Contact time; and
 - (2) Documentation completed during meeting.
- d. Individual care plans and person-centered service plans:
 - (1) Creation; and
 - (2) Revision.

HUMAN SERVICES DEPARTMENT[441](cont'd)

e. Social histories:

- (1) Creation; and
- (2) Revision.

f. Assessments and reassessments:

- (1) Participation during the assessment if requested by the member; and
- (2) Utilization of the assessment for creation of the person-centered service plan.

441—90.7(249A) Case management services provider requirements.**90.7(1) Reporting procedures for major incidents.**

a. When a major incident occurs or a staff member becomes aware of a major incident:

(1) The staff member shall notify the following persons of the incident by midnight of the next calendar day after the incident:

1. The staff member's supervisor;
2. The member or member's legal guardian; and
3. The member's case manager. The case manager shall create an incident report if a provider has not submitted a report.

(2) By midnight of the next business day after the incident, the staff member who observed or first became aware of the incident shall also report as much information as is known by the staff member about the incident to the member's managed care organization in the format required by the managed care organization. If the member is not enrolled with a managed care organization, or is receiving money follows the person funding, the staff member shall report the information by direct data entry into the Iowa Medicaid portal access (IMPA) system. The case manager is responsible for reporting the incident if the provider of service has not already reported the incident.

(3) The following information shall be reported:

1. The name of the member involved;
2. The date, time, and location where the incident occurred;
3. A description of the incident;
4. The names of all provider staff and others who were present at the time of the incident or who responded after becoming aware of the incident. The confidentiality of other Medicaid-eligible members or non-Medicaid-eligible persons who were present must be maintained by the use of initials or other means;
5. The action taken to manage or respond to the incident;
6. The resolution of or follow-up to the incident; and
7. The date the report is made and the handwritten or electronic signature of the person making the report.

(4) When complete information about the incident is not available at the time of the initial report, the case management services provider must submit follow-up reports until the case manager is satisfied with the incident resolution and follow-up.

(5) The case management services provider shall maintain the completed report in a centralized file with a notation in the member's file.

(6) The case management services provider shall track incident data and analyze trends to assess the health and safety of members served and to determine whether changes need to be made for service implementation or whether staff training is needed to reduce the number or severity of incidents.

b. When an incident report for a major incident is received from any provider, the case manager shall monitor the situation to ensure that the member's needs continue to be met.

c. When any major incident occurs, the case manager shall reevaluate the risk factors identified in the risk assessment portion of the service plan in order to ensure the continued health, safety, and welfare of the member. Documentation must be made in the person-centered service plan of this review and follow-up activities.

90.7(2) Reporting procedures for minor incidents. Minor incidents may be reported in any format designated by the case management services provider. When a minor incident occurs, or a staff member becomes aware of a minor incident, the staff member involved shall submit the completed incident

HUMAN SERVICES DEPARTMENT[441](cont'd)

report to the staff member's supervisor within 72 hours of the incident. The completed report shall be maintained in a centralized file with a notation in the member's file.

90.7(3) Quality assurance. Case management services providers shall cooperate with quality assurance activities conducted by the Iowa Medicaid enterprise or a Medicaid managed care organization, as well as any other state or federal entity with oversight authority to ensure the health, safety, and welfare of Medicaid members. These activities may include, but are not limited to:

- a. Postpayment review of case management services;
 - b. Review of incident reports;
 - c. Review of reports of abuse or neglect; and
 - d. Technical assistance in determining the need for service.
- These rules are intended to implement Iowa Code section 249A.4.

ARC 4740C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to Medicaid payments to nursing facilities
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 81, "Nursing Facilities," 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.

Purpose and Summary

The Department proposes these amendments in order to provide clarification on the treatment of depreciation when a change of nursing facility ownership occurs. The proposed amendments also clarify leasing arrangements, update the Iowa Medicaid Enterprise (IME) mailing address, and make changes to reflect current operations of the IME.

Fiscal Impact

Without having all of the lessors' financial data related to ownership of the facilities in leasing arrangements and comparing to lease expenses being paid by the facilities, it would be impossible to determine what the impact of these rules would be on the facilities. However, given the scope of the change coupled with the fact that providers do not receive reimbursement at full cost through their per diem, the rule is expected to have a relatively minimal impact.

Jobs Impact

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

Waivers

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 26, 2019. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 81.6(6) as follows:

81.6(6) *Census of ~~public assistance recipients~~ Medicaid members.* Census figures of ~~public assistance recipients~~ Medicaid members shall be obtained on the last day of the month ending the reporting period.

ITEM 2. Rescind paragraph **81.6(11)“j”** and adopt the following **new** paragraph in lieu thereof:

j. For financial and statistical reports received after [the effective date of these rules], the depreciation, as limited in this rule, may be included as an allowable patient cost.

(1) Limitation on calculation. Depreciation shall be calculated based on the tax cost using only the straight-line method of computation and recognizing the estimated useful life of the asset as defined in the most recent edition of the American Hospital Association Useful Life Guide.

(2) Limitation — full depreciation. Once an asset is fully depreciated, no further depreciation shall be claimed on that asset.

(3) Change of ownership. Depreciation is further limited by the limitations in subrule 81.6(12).

ITEM 3. Rescind paragraph **81.6(11)“m”** and adopt the following **new** paragraph in lieu thereof:

m. For financial and statistical reports received after [the effective date of these rules], the following definitions, calculations, and limitations shall be used to determine allowable rent expense on a cost report.

(1) Landlord’s other expenses. Landlord’s other expenses are limited to amortization, mortgage interest, property taxes unless claimed as a lessee expense, utilities paid by the landlord unless claimed as a lessee expense, property insurance, and building maintenance and repairs.

(2) Reasonable rate of return. Reasonable rate of return means the historical cost of the facility in the hands of the owner when the facility first entered the Medicaid program multiplied by the 30-year Treasury bond rate as reported by the Federal Reserve Board at the date of lease inception.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(3) Nonrelated party leases. When the operator of a participating facility rents from a party that is not a related party, as defined in paragraph 81.6(11)“l,” the allowable cost report rental expense shall be the lesser of:

1. Lessor’s annual depreciation as identified in paragraph 81.6(11)“j” plus the landlord’s other expenses, plus a reasonable rate of return; or
2. Actual rent payments.

(4) Related party leases. When the operator of a participating facility rents from a related party, as defined in paragraph 81.6(11)“l,” the allowable cost report rental expense shall be the lesser of:

1. Lessor’s annual depreciation as identified in paragraph 81.6(11)“j” plus the landlord’s other expenses; or
2. Actual rent payments.

ITEM 4. Amend subparagraph **81.6(16)“h”(5)** as follows:

(5) Submission of request. A facility shall submit a written request for the capital cost per diem instant relief add-on, the enhanced non-direct care rate component limit, or a preliminary evaluation of whether a project may qualify for additional reimbursement to the Iowa Medicaid Enterprise, Provider Cost Audit and Rate Setting Unit, ~~100 Army Post Road~~ P.O. Box 36450, Des Moines, Iowa 50315. A qualifying facility may request one or both types of additional reimbursement.

1. to 3. No change.

ITEM 5. Rescind paragraph **81.10(4)“h”** and adopt the following **new** paragraph in lieu thereof:

h. Ventilator patients.

(1) Definition. For purposes of this paragraph only, “ventilator patients” means Medicaid-eligible patients who, as determined by the quality improvement organization, require a ventilator at least six hours every day, are inappropriate for home care, and have medical needs that require skilled care.

(2) Reimbursement. In-state nursing facilities shall receive reimbursement for care of ventilator patients equal to the sum of the Medicare-certified hospital-based nursing facility rate plus the Medicare-certified hospital-based nursing facility non-direct care rate component as defined in subparagraph 81.6(16)“f”(3). Facilities may continue to receive this reimbursement at this rate for 30 days after a ventilator patient is weaned from a ventilator if, during the 30 days, the patient continues to reside in the facility and continues to meet skilled care criteria.

ITEM 6. Amend paragraph **81.10(5)“a”** as follows:

a. Supplies or services that the facility shall provide:

(1) Nursing services, social work services, activity programs, individual and group therapy, rehabilitation or habilitation programs provided by facility staff in order to carry out the plan of care for the resident.

(2) Services related to the nutrition, comfort, cleanliness and grooming of a resident as required under state licensure and Medicaid survey regulations.

(3) Medical equipment and supplies including wheelchairs except for customized wheelchairs for which separate payment may be made pursuant to ~~441—subparagraph 78.10(2)“a”(4), 441—paragraph 78.10(2)“d,”~~ medical supplies except for those listed in ~~441—paragraph 78.10(4)“b,”~~ oxygen except under circumstances specified in ~~441—paragraph 78.10(2)“a,”~~ and other items required in the facility-developed plan of care.

(4) Nonprescription drugs ordered by the physician, ~~except for those specified in 441—paragraph 78.1(2)“f.”~~

(5) Fees charged by medical professionals for services requested by the facility that do not meet criteria for direct Medicaid payment.

ITEM 7. Amend paragraph **81.13(5)“e”** as follows:

e. *Privacy and confidentiality.* The resident has the right to personal privacy and confidentiality of personal and clinical records.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(1) Personal privacy includes accommodations, medical treatment, ~~written and telephone communications~~, personal care, visits, and meetings of family and resident groups, but this does not require the facility to provide a private room for each resident.

(2) The facility must respect the resident's right to personal privacy, including the right to privacy in the resident's oral (that is, spoken or sign language), written, and electronic communications.

~~(2) (3)~~ (3) Except as provided in subparagraph ~~(3) (4)~~ below, the resident may approve or refuse the release of personal and clinical records to any person outside the facility.

~~(3) (4)~~ (4) The resident's right to refuse release of personal and clinical records does not apply ~~when the resident is transferred to another health care institution or record release is required by law.~~ to the following:

- The release of personal and clinical records to a health care institution to which the resident is transferred; or

- A record release that is required by law.

ITEM 8. Rescind paragraph **81.13(5)“i”** and adopt the following **new** paragraph in lieu thereof:

i. Mail. The resident has the right to send and receive mail, and to receive letters, packages and other materials delivered to the facility for the resident, whether delivered by a postal service or by other means, including the right to:

- (1) Privacy of such communications consistent with this section; and
- (2) Access to stationary, postage, and writing implements at the resident's own expense.

ITEM 9. Adopt the following **new** paragraph **81.13(5)“q”**:

q. Electronic communication. The resident has the right to have reasonable access to and privacy in the resident's use of electronic communications, including, but not limited to, email and video communications, and for Internet research:

- (1) If accessible to the facility;
- (2) At the resident's expense, if any additional expense is incurred by the facility to provide such access to the resident; and
- (3) To the extent that such use may comply with state and federal law.

ITEM 10. Amend subparagraph **81.13(9)“b”(7)** as follows:

- (7) Automated data processing requirement.
 1. to 3. No change.
 4. The facility must transmit MDS data in the ASCH format specified by CMS.

ARC 4743C

NURSING BOARD[655]

Notice of Intended Action

Proposing rule making related to child abuse and dependent adult abuse mandatory reporter training and providing an opportunity for public comment

The Board of Nursing hereby proposes to amend Chapter 3, “Licensure to Practice—Registered Nurse/Licensed Practical Nurse,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.10, 232.69(3)“e,” 235B.16(5)“f,” and 272C.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 232.69 and 235B.16.

NURSING BOARD[655](cont'd)

Purpose and Summary

2019 Iowa Acts, House File 731, amends Iowa Code sections 232.69(3) and 235B.16(5), which govern mandatory child abuse and dependent adult abuse reporter training requirements for certain professionals. This rule making amends Chapter 3 to conform to those changes and requires that nurses who must make reports for child abuse or dependent adult abuse, or both, comply with the training requirements provided in the amended Iowa Code sections 232.69 and 235B.16 every three years.

This rule making also amends Chapter 3 to remove references to wallet cards because the Board no longer issues physical wallet cards to licensees.

This rule making also amends Chapter 3 to clarify that a passing score on the Internet-based Test of English as a Foreign Language (TOEFL®) test is an 84 with a speaking score of at least 26.

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 655—Chapter 15.

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 26, 2019. Comments should be directed to:

Kathy Weinberg
Iowa Board of Nursing
400 S.W. Eighth Street, Suite B
Des Moines, Iowa 50309
Email: kathy.weinberg@iowa.gov

Public Hearing

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

December 6, 2019
9 to 10 a.m.

Board Office, Suite B
400 S.W. Eighth Street
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

NURSING BOARD[655](cont'd)

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

The following rule-making actions are proposed:

ITEM 1. Amend rule ~~655—3.1(17A,147,152,272C)~~, definition of “Fees,” as follows:

“Fees” means those fees collected which are based upon the cost of sustaining the board’s mission to protect the public health, safety and welfare. The nonrefundable fees set by the board are as follows:

1. to 9. No change.

10. For a ~~duplicate or reissued wallet card or original certificate to practice~~ recognizing Iowa licensure as a registered nurse, licensed practical nurse, or advanced registered nurse practitioner, \$20.

11. to 14. No change.

ITEM 2. Amend paragraph ~~3.6(2)“c”~~ as follows:

c. The ability to read, write, speak, and understand the English language as determined by passing the TOEFL® or IELTS™ test. ~~A For the TOEFL® test, a passing score is as follows: 560 for the TOEFL® paper-based test; or 220 for the TOEFL® computer-based test; or 84 for the TOEFL® Internet-based test; and with a speaking score of at least 26. For the IELTS™ test, a passing score is as follows: an overall score of 6.5 and a speaking score of 7.0 for the IELTS™ test.~~ An applicant shall be exempt from taking either the TOEFL® or IELTS™ test when all of the following requirements are met: (1) the nursing education was completed in a college, university, or professional school located in Australia, Barbados, Canada (except Quebec), Ireland, Jamaica, New Zealand, South Africa, Trinidad and Tobago, or the United Kingdom; (2) the language of instruction in the nursing program was English; and (3) the language of the textbooks in the nursing program was English.

ITEM 3. Amend paragraph ~~3.7(3)“b”~~ as follows:

b. Mandatory reporter training.

(1) The ~~course~~ course(s) shall be a the curriculum approved provided by the Iowa department of ~~public health~~ human services.

(2) A licensee who regularly examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of ~~two hours of training~~ in child abuse identification and reporting as required by Iowa Code section 232.69(3)“b” in the previous ~~five~~ three years or condition(s) for rule suspension as identified in subparagraph ~~3.7(3)“b”(6)~~ 3.7(3)“b”(5).

(3) A licensee who regularly examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of ~~two hours of training~~ in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5)“b” in the previous ~~five~~ three years or condition(s) for rule suspension as identified in subparagraph ~~3.7(3)“b”(6)~~ 3.7(3)“b”(5).

~~(4) A licensee who regularly examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training on abuse identification and reporting in dependent adults and children or condition(s) for rule suspension as identified in subparagraph 3.7(3)“b”(6). Training may be completed through separate courses as identified in subparagraphs 3.7(3)“b”(2) and (3) or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse.~~

~~(5) (4)~~ The licensee shall maintain written documentation for ~~five~~ three years after mandatory training as identified in subparagraphs ~~3.7(3)“b”(2) to (4)~~ and (3), including program date(s), content, duration, and proof of participation.

~~(6) (5)~~ The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

1. Is engaged in active duty in the military service of this state or the United States.

2. Holds a current exemption based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of

NURSING BOARD[655](cont'd)

time in which to fulfill requirements due to a physical or mental disability or illness as identified in 655—Chapter 5.

(7) (6) The board may select licensees for audit of compliance with the requirements in subparagraphs 3.7(3) “b”(1) to (6) (5).

ITEM 4. Rescind subrule 3.7(6).

ITEM 5. Renumber subrule 3.7(7) as 3.7(6).

ITEM 6. Amend renumbered subrule 3.7(6) as follows:

3.7(6) *Reissue of a an original certificate or wallet card*. The board shall reissue a an original certificate or current wallet card recognizing Iowa licensure upon receipt of a written request from the licensee, return of the original document and payment of the fee as specified in rule 655—3.1(17A,147,152,272C). No fee shall be required if an error was made by the board on the original document.

ARC 4744C

NURSING BOARD[655]

Notice of Intended Action

Proposing rule making related to continuing education and child and dependent adult abuse mandatory reporter training and providing an opportunity for public comment

The Board of Nursing hereby proposes to amend Chapter 5, “Continuing Education,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.76 and 272C.2(1).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272C.2.

Purpose and Summary

2019 Iowa Acts, House File 731, amends Iowa Code sections 232.69(3) and 235B.16(5), which govern mandatory child abuse and dependent adult abuse identification and reporting training requirements for certain professionals. This rule making amends Chapter 5 to conform to the new statutory language and clarifies that the proof of completion issued by the Department of Human Services shall satisfy the Board’s documentation requirements.

This rule making also clarifies that the subject matter of the licensee’s continuing education should be applicable to the licensee’s practice area.

This rule making also expands the list of entities that may approve a continuing education offering. Due to the expansion of the list of approving entities, licensees will have access to a broader range of courses and will more easily be able to find courses that are applicable to their practice areas. Additionally, this rule making removes the requirement for Board staff to approve coursework under the special approval process for the added approving entities.

This rule making also eliminates the 90-day response deadline to submit documentation for continuing education make-up credit to reflect internal procedural changes to the process of reviewing incomplete continuing education submissions.

Fiscal Impact

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

NURSING BOARD[655](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 655—Chapter 15.

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 26, 2019. Comments should be directed to:

Kathy Weinberg
Iowa Board of Nursing
400 S.W. Eighth Street, Suite B
Des Moines, Iowa 50309
Email: kathy.weinberg@iowa.gov

Public Hearing

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

December 6, 2019
9 to 10 a.m.

Board Office, Suite B
400 S.W. Eighth Street
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **5.2(4)“a”** as follows:

a. Appropriate subject matter for continuing education credits reflects the educational needs of the nurse learner and the health needs of the consumer. Appropriate subject matter is limited to offerings that are scientifically founded, applicable to the licensee's practice area, and predominantly for professional growth. The following areas are deemed appropriate subject matter for continuing education credit:

- (1) Nursing practice related to health care of patients/clients/families in any setting.
- (2) Professional growth and development related to nursing practice roles with a health care focus.
- (3) Sciences upon which nursing practice, nursing education, or nursing research is based, e.g., nursing theories and biological, physical, behavioral, computer, social, or basic sciences.
- (4) Social, economic, ethical and legal aspects of health care.
- (5) Management of or administration of health care, health care personnel, or health care facilities.

NURSING BOARD[655](cont'd)

(6) Education of patients or patients' significant others, students, or personnel in the health care field.

ITEM 2. Amend paragraph 5.2(5)“a” as follows:

a. Informal offerings approved by the following entities:

- (1) ~~Board-approved providers~~ Iowa board of nursing.
- (2) ~~Other approved providers from~~ state boards of nursing that have mandatory continuing education requirements.
- (3) American Nurses Credentialing Center (ANCC) Commission on Accreditation.
- (4) National League for Nursing (NLN).
- (5) National Federation of Licensed Practical Nurses Continuing Education (NFLPN) and the NFLPN Education Foundation.
- (6) National Association for Practical Nurse Education and Service, Inc. (NAPNES).
- (7) American Association of Nurse Practitioners (AANP).
- (8) National Association of Pediatric Nurse Practitioners (NAPNAP).
- (9) Accreditation Council for Continuing Medical Education (ACCME).
- (10) American Medical Association (AMA) Continuing Medical Education.
- (11) International Association for Continuing Education and Training (IACET).
- (12) American Psychological Association (APA).
- (13) National Commission for Health Education Credentialing.
- (14) National Board of Public Health Examiners.
- (15) National Commission for Certifying Agencies (NCCA).
- (16) Commission for Case Manager Certification (CCMC).
- (17) National Council for Behavioral Health.

ITEM 3. Amend paragraph 5.2(10)“b” as follows:

b. The licensee must submit verification of completion of the mandatory reporter training ~~course~~ approved course(s) provided by the Iowa department of public health human services in the previous five three years as specified in 655—subrule 3.7(3). The proof of completion issued by the Iowa department of human services shall satisfy the documentation requirements of subrule 5.2(6).

ITEM 4. Amend paragraph 5.2(10)“d” as follows:

d. If submitted materials are incomplete or unsatisfactory, the licensee shall be notified. The licensee shall be given the opportunity to submit make-up credit to cover the deficit found through the audit. ~~The deadline for receipt of the documentation for this make-up credit is within 90 days of the board office notification.~~ The licensee may be reaudited during the next renewal period when make-up credit has been accepted. The make-up credit shall not be reused for the current renewal period.

ARC 4745C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

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

The Board of Behavioral Science hereby proposes to amend Chapter 31, “Licensure of Marital and Family Therapists, Mental Health Counselors, Behavior Analysts, and Assistant Behavior Analysts,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 154D.3.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 154D.

Purpose and Summary

This proposed rule making updates the name of the Association of Marriage and Family Therapy Regulatory Boards; changes the examination required for permanent mental health counselor licensure to the National Clinical Mental Health Counselor Examination effective January 1, 2022; clarifies that applicants completing their supervised experience shall complete a minimum of two calendar years of supervised practice; clarifies the expectation that temporary licensees not practice independently; and adds the American Mental Health Counselors Association to the Board's education equivalency 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

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

Public Comment

Any interested person may submit written 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 26, 2019. Comments should be directed to:

Tony Alden
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.281.4401
Fax: 515.281.3121
Email: tony.alden@idph.iowa.gov

Public Hearing

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

November 26, 2019
8:30 to 9 a.m.

Fifth Floor Board Conference Room 526
Lucas State Office Building
Des Moines, Iowa

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

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

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** definition of "AMHCA" in rule **645—31.1(154D)**:

"AMHCA" means the American Mental Health Counselors Association.

ITEM 2. Amend rule **645—31.1(154D)**, definition of "AMFTRB," as follows:

"AMFTRB" means the Association of Marital Marriage and Family Therapy Regulatory Boards.

ITEM 3. Amend subrule 31.3(1) as follows:

31.3(1) ~~In~~ The applicant shall take and pass the following examinations in order to qualify for licensing, the applicant:

a. For a marital and family therapist license, ~~shall take and pass~~ the Association of Marital Marriage and Family Therapy Regulatory Board (AMFTRB) Examination in Marital and Family Therapy.

b. ~~For a mental health counselor license shall take and pass the National Counselor Examination of the NBCC or the National Clinical Mental Health Counselor Examination of the NBCC. Prior to January 1, 2022, for a mental health counselor license or a temporary mental health counselor license, the National Counselor Examination (NCE) of the NBCC or the National Clinical Mental Health Counselor Examination (NCMHCE) of the NBCC.~~

c. Effective January 1, 2022, for a temporary mental health counselor license, the NCE of the NBCC or the NCMHCE of the NBCC.

d. Effective January 1, 2022, for a mental health counselor license, the NCMHCE of the NBCC.

ITEM 4. Amend paragraph **31.5(1)"a"** as follows:

a. Be a minimum of two years ~~or the equivalent~~ of full-time, postgraduate supervised professional work experience in marital and family therapy.

ITEM 5. Amend subparagraph **31.6(2)"a"(10)** as follows:

(10) Professional orientation. Studies that provide an understanding of all aspects of professional functioning, including history, roles, organizational structures, ethics, standards, and credentialing. Studies in this area include, but are not limited to, the following:

1. and 2. No change.

3. Professional organizations (primarily ACA or AMHCA, ~~its~~ their divisions, and ~~its~~ their branches), including membership benefits, activities, services to members, and current emphases;

4. Ethical standards of the ACA or AMHCA and ~~their~~ the evolution of those standards, legal issues, and applications to various professional activities (e.g., appraisal and group work);

5. and 6. No change.

ITEM 6. Amend subparagraph **31.6(2)"b"(1)** as follows:

(1) Professional orientation and ethical practice. Studies that provide an understanding of all of the following aspects of professional functioning:

1. to 5. No change.

6. Professional organizations (~~i.e.~~, primarily ACA or AMHCA, ~~its~~ and their divisions, branches, and affiliates), including membership benefits, activities, services to members, and current emphases;

7. to 9. No change.

10. Ethical standards of ACA or AMHCA and related entities, and applications of ethical and legal considerations in professional counseling.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 7. Amend paragraph **31.7(1)“a”** as follows:

a. Be a minimum of two years ~~or the equivalent of full-time,~~ of postgraduate supervised professional work experience in mental health counseling.

ITEM 8. Amend paragraph **31.10(3)“a”** as follows:

a. Meet the continuing education requirements of rule 645—32.2(272C) ~~and the mandatory reporting requirements of subrule 31.10(4).~~ A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

ITEM 9. Amend subrule 31.10(4) as follows:

31.10(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee’s employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting as required by Iowa Code section 232.69(3)“b” in the previous ~~five~~ three years or condition(s) for waiver of this requirement as identified in paragraph ~~“e.”~~ “d.”

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5)“b” in the previous ~~five~~ three years or condition(s) for waiver of this requirement as identified in paragraph ~~“e.”~~ “d.”

~~*c.* A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.”~~

~~Training may be completed through separate courses as identified in paragraphs “a” and “b” or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.~~

~~*d. c.* The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs “a” to “e,” and “b,” including program date(s), content, duration, and proof of participation.~~

~~*e. d.* The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:~~

~~(1) Is engaged in active duty in the military service of this state or the United States.~~

~~(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 4.~~

~~*f. e.* The board may select licensees for audit of compliance with the requirements in paragraphs “a” to “e.” “d.”~~

ITEM 10. Adopt the following new rule 645—31.19(154D):

645—31.19(154D) Temporary licensees. A temporary licensee shall engage only in the practice of marital and family therapy or mental health counseling as part of an agency or group practice with oversight over the temporary licensee. The agency or group practice shall have at least one independently licensed mental health provider. A temporary licensee shall not practice as a solo practitioner or solely with other temporary licensees.

ARC 4746C**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rule making related to continuing education hours and mandatory reporter training and providing an opportunity for public comment**

The Board of Behavioral Science hereby proposes to amend Chapter 32, “Continuing Education for Marital and Family Therapists and Mental Health Counselors,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.10 and 2019 Iowa Acts, House File 606 and House File 731.

Purpose and Summary

This proposed rule making seeks to implement 2019 Iowa Acts, House File 606, which removes any restriction on the number of continuing education hours a licensee may earn from online sources, and 2019 Iowa Acts, House File 731, which modifies mandatory child abuse and dependent adult abuse identification and reporting training requirements. This rule making also seeks to add a month to the time frame in which licensees can count hours toward license renewal, and it adds a provision for board service to count toward a portion of a licensee’s continuing education requirements.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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 29, 2019. Comments should be directed to:

Tony Alden
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.281.4401
Fax: 515.281.3121
Email: tony.alden@idph.iowa.gov

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Public Hearing

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

November 26, 2019
8:30 to 9 a.m.

Fifth Floor Board Conference Room 526
Lucas State Office Building
Des Moines, Iowa

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

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 "Independent study" in rule **645—32.1(272C)**:
"Independent study" means a continuing education program or activity that a licensee pursues autonomously that includes a posttest and meets the general criteria in subrule 32.3(1).

ITEM 2. Amend subrule 32.2(1) as follows:
32.2(1) The biennial continuing education compliance period shall extend for a ~~two-year~~ **25-month** period beginning on ~~October~~ **September** 1 of the even-numbered year and ending on September 30 of the next even-numbered year. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 40 hours of continuing education approved by the board.

ITEM 3. Amend paragraph **32.3(2)"a"** as follows:
a. Attendance at workshops, conferences, symposiums and ~~academic courses~~ **webinars**. ~~Official transcripts indicating successful completion of academic courses which apply to the field of mental health counseling or marital and family therapy, as appropriate, will be necessary in order to receive the following continuing education credits:~~

~~1 academic semester hour = 15 continuing education hours~~

~~1 academic quarter hour = 10 continuing education hours~~

ITEM 4. Adopt the following **new** paragraph **32.3(2)"b"**:
b. Academic courses. Official transcripts indicating successful completion of academic courses which apply to the field of mental health counseling or marital and family therapy, as appropriate, will be necessary in order to receive the following continuing education credits:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

ITEM 5. Reletter paragraph **32.3(2)"c"** as **32.3(2)"d."**

ITEM 6. Adopt the following **new** paragraph **32.3(2)"c"**:

c. Completion of independent study courses that meet the general criteria in subrule 32.3(1).

ITEM 7. Amend relettered paragraph **32.3(2)"d"** as follows:

d. A maximum of 20 hours of continuing education credit may be granted for any of the following activities not to exceed a combined total of 20 hours:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

(1) Presenting professional programs which meet the criteria in 645—32.3(272C). Two hours of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for audit. Presentation at a professional program does not include teaching class at an institution of higher learning at which the applicant is regularly and primarily employed. Presentations to lay public are excluded.

(2) Scholarly research or other activities, the results of which are published in a recognized professional publication such as a refereed journal, monograph or conference proceedings. The scholarly research must be integrally related to the practice of the professions.

(3) Publication in a refereed journal. The article in a refereed journal for which the licensee is seeking continuing education credit must be integrally related to the practice of the professions.

~~(4) Distance learning conferences or courses will be allowed if the following criteria are met:~~

~~1. The program is offered through electronic transmission.~~

~~2. The program allows for interaction between the presenter and the participants.~~

~~3. The program issues the participants an official transcript, certificate of attendance or verification of successful completion of the course which applies to the field of mental health counseling or marital and family therapy.~~

~~(5) Home study courses will be allowed if the following criteria are met:~~

~~1. The program is recognized by the National Board for Certified Counselors (NBCC) or American Association of Marriage and Family Therapy (AAMFT) or meets all of the criteria in 645—32.3(272C).~~

~~2. An official transcript, verification or certificate of completion is presented after successful completion of the course.~~

~~(6) Viewing multimedia presentations will be allowed if the following criteria are met:~~

~~1. There is a sponsoring group or agency.~~

~~2. There is a facilitator or program official present.~~

~~3. The program official may not be the only attendee.~~

~~4. The program meets all of the criteria in 645—32.3(272C).~~

~~(7) Computer-assisted instructional courses or programs pertaining to the practice of mental health counseling or marital and family therapy will be allowed if the following criteria are met:~~

~~1. The courses and programs are approved by the National Board for Certified Counselors (NBCC) or American Association of Marriage and Family Therapy (AAMFT) or their affiliates or meet all of the criteria in 645—32.3(272C).~~

~~2. An official transcript, certificate of completion, or verification that includes the following information is presented after successful completion of the course:~~

~~● Date course/program was completed.~~

~~● Title of the course/program.~~

~~● Number of course/program continuing education hours.~~

~~● Official signature or verification of the course/program sponsor.~~

~~(8) (4) Teaching in an approved college, university, or graduate school. The licensee may receive credit on a one-time basis for the first offering of the course.~~

~~(9) (5) Authoring papers, publications, and books. The licensee shall receive five hours of credit per page with a maximum of 20 hours of credit.~~

~~(6) Serving on a state or national professional board. The licensee shall receive a maximum of three hours of credit.~~

ITEM 8. Adopt the following **new** paragraphs **32.3(3)“c”** and **“d”**:

c. Effective July 1, 2019, a licensee who regularly examines, attends, counsels or treats adults in Iowa shall complete, within six months of employment or prior to the expiration of a current certification, an initial two-hour course in dependent adult abuse training for mandatory reporters offered by the department of human services. Thereafter, all mandatory reporters shall take a one-hour recertification training every three years, prior to the expiration of a current certification.

d. Effective July 1, 2019, a licensee who regularly examines, attends, counsels or treats children in Iowa shall complete, within six months of employment or prior to the expiration of a current certification,

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

an initial two-hour course in child abuse training for mandatory reporters offered by the department of human services. Thereafter, all mandatory reporters shall take a one-hour recertification training every three years, prior to the expiration of a current certification.

ARC 4742C**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rule making related to child abuse and dependent adult abuse mandatory reporter training and providing an opportunity for public comment**

The Iowa Board of Chiropractic hereby proposes to amend Chapter 41, “Licensure of Chiropractic Physicians,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 232.69(3)“e,” 235B.16(5)“f,” and 272C.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 232.69 and 235B.16 as amended by 2019 Iowa Acts, chapter 91.

Purpose and Summary

2019 Iowa Acts, chapter 91 [House File 731], amends Iowa Code sections 232.69 and 235B.16, which govern mandatory training in child and dependent adult abuse reporting for certain professionals. This proposed rule making amends the Board’s requirements for mandatory training in child and dependent adult abuse reporting to reflect the statutory changes and requires that chiropractors, who must make reports for child and dependent adult abuse, comply with the training requirements every three years as provided in the amended Iowa Code sections 232.69 and 235B.16.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on November 26, 2019. Comments should be directed to:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

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

Public Hearing

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

November 26, 2019
8 to 8:30 a.m.

Fifth Floor Board Conference Room 526
Lucas State Office Building
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend subrule 41.8(4) as follows:

41.8(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of ~~two hours~~ of training in child abuse identification and reporting as required by Iowa Code section 232.69(3) "b" in the previous ~~five~~ three years or condition(s) for waiver of this requirement as identified in paragraph 41.8(4) "e."

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of ~~two hours~~ of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5) "b" in the previous ~~five~~ three years or condition(s) for waiver of this requirement as identified in paragraph 41.8(4) "e."

c. ~~A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels, or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years of condition(s) for waiver or this requirement as identified in paragraph 41.8(4) "e."~~

~~Training may be completed through separate courses as identified in paragraphs 41.8(4) "a" and "b" or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course course(s) shall be a the curriculum approved provided by the Iowa department of public health abuse education review panel human services.~~

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

d. The licensee shall maintain written documentation for ~~five~~ three years after mandatory training as identified in paragraphs 41.8(4) "*a*" to "*e*," and "*b*," including program date(s), content, duration, and proof of participation.

e. and *f.* No change.

ARC 4736C**TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rule making related to special registration plates
and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 401, "Special Registration Plates," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12, 321.34 and 321.166.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321.34 as amended by 2019 Iowa Acts, Senate File 638, section 35.

Purpose and Summary

The proposed amendments conform Chapter 401 to 2019 Iowa Acts, Senate File 638, section 35, which amends Iowa Code section 321.34 to provide for the creation of new blackout license plates. In accordance with Senate File 638, the Department began taking orders for the new blackout license plates on July 1, 2019. The proposed amendments also make technical changes throughout the chapter to update the Vehicle and Motor Carrier Services Bureau's name and to accommodate electronic submission of license plate applications, which further streamlines the application process.

Fiscal Impact

This rule making has no fiscal impact beyond that imposed by its authorizing legislation. 2019 Iowa Acts, Senate File 638, section 35, establishes the fees for the new blackout plates. The fee for initial issuance of one set of standard (nonpersonalized) blackout plates is \$35, and the fee for annual renewal of the plates is \$10. Section 35 allows any blackout plates issued to be personalized and retains the usual fees for personalized plates established in Iowa Code section 321.34(5), which are an additional \$25 for initial issuance of the plates and \$5 for annual renewal of the plates. The authorizing legislation and the rules adopted pursuant to the legislation will have a positive fiscal impact on Iowa's Road Use Tax Fund, since Senate File 638, section 35, requires that all fees authorized for the blackout plates be deposited in the Road Use Tax Fund. Although it is difficult to predict the long-term ordering and adoption rates, the plates appear to be popular. Between July 1, 2019, and August 31, 2019, the Department issued 10,682 blackout plates, and approximately 54 percent of the plates issued were personalized. Based on those numbers and for that time frame, approximately \$517,000 in additional revenue was collected that will inure to the benefit of the Road Use Tax Fund. This positive impact will grow as additional orders are received in the future.

Jobs Impact

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

TRANSPORTATION DEPARTMENT[761](cont'd)

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 26, 2019. Comments should be directed to:

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

Public Hearing

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

December 3, 2019
 10 a.m.

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

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

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **401.2(1)“b”** as follows:

b. ~~Collegiate Application for blackout plates, collegiate plates, personalized plates, and special registration plates that have eligibility requirements must be requested using an application form submitted to the department in a manner prescribed by the department. Unless otherwise specified, completed application forms applications for these plates shall be submitted to the department at the following address: Office of Vehicle and Motor Carrier Services Bureau, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278. Application forms Applications may be obtained from the office of vehicle and motor carrier services bureau or from any county treasurer's office. Application forms Applications are also available on the department's website at www.iowadot.gov.~~

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 2. Amend rule 761—401.4(321) as follows:

761—401.4(321) Gift certificates. Gift certificates for blackout plates, collegiate plates, personalized plates, and special registration plates that have eligibility requirements may be purchased using the prescribed plate application ~~form~~. Gift certificates for special registration plates that counties have in their inventories may be purchased from county treasurers' offices.

ITEM 3. Amend rule 761—401.5(321) as follows:

761—401.5(321) Amateur radio call letter plates. Application for amateur radio call letter plates shall be made to the county treasurer ~~on a form~~ in a manner prescribed by the department. The number of the amateur radio license issued by the Federal Communications Commission shall be listed on the application.

ITEM 4. Amend subrule 401.6(1) as follows:

401.6(1) Application. Application for personalized plates shall be submitted to the department ~~on a form~~ in a manner prescribed by the department.

ITEM 5. Amend subrule 401.7(1) as follows:

401.7(1) Application. Application for collegiate plates shall be submitted to the department ~~on a form~~ in a manner prescribed by the department. The applicant may request letter-number designated collegiate plates or personalized collegiate plates. Collegiate plates for motorcycles, autocycles and small trailers are not available.

ITEM 6. Amend subrule 401.8(1) as follows:

401.8(1) Application for Medal of Honor plates shall be submitted to the department ~~on a form~~ in a manner prescribed by the department. The applicant shall attach a copy of the official government document verifying receipt of the medal of honor.

ITEM 7. Amend subrule 401.10(1) as follows:

401.10(1) Application for emergency medical services (EMS) plates shall be submitted to the department ~~on a form~~ in a manner prescribed by the department. The applicant and the applicant's service director shall sign the application ~~form~~ certifying that the applicant is a current member of a paid or volunteer emergency medical services agency. For purposes of this subrule, "service director" means a service director as defined in Iowa department of public health rule 641—132.1(147A).

ITEM 8. Adopt the following new rule 761—401.12(321):

761—401.12(321) Blackout plates.

401.12(1) Application. Application for blackout plates shall be submitted to the department in a manner prescribed by the department. The applicant may request letter-number designated blackout plates or personalized blackout plates. Blackout plates are available for autocycles, motor trucks, motor homes, multipurpose vehicles, motorcycles, trailers and travel trailers.

401.12(2) Characters. Personalized blackout plates shall be issued in accordance with subrule 401.6(2).

ITEM 9. Amend subrule 401.15(3) as follows:

401.15(3) The ~~office of~~ vehicle and motor carrier services bureau may consult with other organizations, law enforcement authorities, and the general public concerning the decal design.

ITEM 10. Amend subrule 401.15(4) as follows:

401.15(4) Within 60 days after receiving the application, the ~~office of~~ vehicle and motor carrier services bureau shall advise the organization of the department's approval or denial of the application. The department reserves the right to approve or disapprove any decal design.

ITEM 11. Amend paragraph **401.18(1)"d"** as follows:

d. The ~~office of~~ vehicle and motor carrier services bureau may consult with other organizations, law enforcement authorities, and the general public concerning distinguishing processed emblems.

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 12. Amend subrule 401.18(4) as follows:

401.18(4) Application process.

a. Applications for either letter-number designated or personalized combat infantryman badge, combat action badge, combat action ribbon, air force combat action medal, or combat medical badge special registration plates shall be submitted to the department ~~on a form~~ in a manner prescribed by the department. The applicant shall attach to the application a copy of an official government document verifying award of the combat infantryman badge, combat action badge, combat action ribbon, air force combat action medal or combat medical badge to the applicant.

b. No change.

c. Applications for personalized civil war sesquicentennial or fallen peace officers special registration plates shall be submitted to the department ~~on a form~~ in a manner prescribed by the department.

ITEM 13. Amend rule 761—401.19(321) as follows:

761—401.19(321) Legion of Merit plates. Application for special plates with a Legion of Merit processed emblem shall be submitted to the department ~~on a form~~ in a manner prescribed by the department. The applicant shall attach a copy of the official government document verifying receipt of the Legion of Merit. Personalized plates with a Legion of Merit processed emblem are not available. Pursuant to Iowa Code section 321.34, an applicant is eligible for one set of Legion of Merit plates at a reduced annual registration fee of \$15 for one vehicle owned. However, an applicant may obtain additional Legion of Merit plates upon payment of the regular annual registration fee.

ITEM 14. Amend subrule 401.20(1), introductory paragraph, as follows:

401.20(1) Application. Application for special plates with a persons with disabilities processed emblem shall be submitted to the county treasurer ~~on a form~~ in a manner prescribed by the department.

ITEM 15. Amend subrule 401.21(1) as follows:

401.21(1) Application for special plates with an ex-prisoner of war processed emblem shall be submitted to the department ~~on a form~~ in a manner prescribed by the department. The applicant shall attach a copy of an official government document verifying that the applicant was a prisoner of war. If the document is not available, a person who has knowledge that the applicant was a prisoner of war shall sign a statement to that effect on the application ~~form~~.

ITEM 16. Amend rule 761—401.22(321) as follows:

761—401.22(321) National guard plates. Application for special plates with a national guard processed emblem shall be submitted to the department ~~on a form~~ in a manner prescribed by the department. The unit commander of the applicant shall sign the application ~~form~~ confirming that the applicant is a member of the Iowa national guard.

ITEM 17. Amend rule 761—401.23(321) as follows:

761—401.23(321) Pearl Harbor plates. Application for special plates with a Pearl Harbor processed emblem shall be submitted to the department ~~on a form~~ in a manner prescribed by the department. The applicant shall attach a copy of an official government document verifying that the applicant was stationed at Pearl Harbor, Hawaii, as a member of the armed forces on December 7, 1941.

ITEM 18. Amend rule 761—401.24(321), introductory paragraph, as follows:

761—401.24(321) Purple Heart, Silver Star and Bronze Star plates. Application for special plates with a Purple Heart, Silver Star, or Bronze Star processed emblem shall be submitted to the department ~~on a form~~ in a manner prescribed by the department. To verify receipt of the medal, the applicant shall attach a copy of one of the following:

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 19. Amend rule 761—401.25(321), introductory paragraph, as follows:

761—401.25(321) U.S. armed forces retired plates. Application for special plates with a United States armed forces retired processed emblem shall be submitted to the department ~~on a form~~ in a manner prescribed by the department. A person is considered to be retired if the person is recognized by the United States armed forces as retired from the United States armed forces. To verify retirement from the United States armed forces, the applicant shall attach a copy of one of the following:

ITEM 20. Amend **761—Chapter 401**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 35A.11, 321.34 as amended by 2019 Iowa Acts, Senate File 638, section 35, 321.105, 321.166 and 321L.1 and chapter 17A.

ARC 4747C

DENTAL BOARD[650]**Adopted and Filed****Rule making related to student loan debt or service obligation default or delinquency**

The Dental Board hereby amends Chapter 6, “Public Records and Fair Information Practices,” Chapter 11, “Licensure to Practice Dentistry or Dental Hygiene,” Chapter 14, “Renewal and Reinstatement,” Chapter 20, “Dental Assistants,” Chapter 29, “Sedation and Nitrous Oxide,” and Chapter 30, “Discipline,” and rescinds Chapter 34, “Student Loan Default/Noncompliance with Agreement for Payment of Obligation,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 147.76 and section 272C.4 as amended by 2019 Iowa Acts, Senate File 304, section 2.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, Senate File 304, section 2.

Purpose and Summary

During the 2019 Legislative Session, a change was made to the Iowa Code to repeal Iowa Code sections 261.121 through 261.127, effective July 1, 2019, and prohibit the suspension or revocation of a license issued by the Board to a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency. The rule making implements this change.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 3, 2019, as **ARC 4526C**. The Board accepted written and oral comments through July 24, 2019. No public comments were received. Changes from the Notice have been made to include and update other references to receipt of a certificate of noncompliance from the College Student Aid Commission that appear elsewhere in the Board’s rules.

Adoption of Rule Making

This rule making was adopted by the Board on September 27, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to rule 650—7.4(17A,147,153).

DENTAL BOARD[650](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 December 11, 2019.

The following rule-making actions are adopted:

ITEM 1. Rescind paragraph **6.9(2)“i.”**

ITEM 2. Amend rule 650—11.11(252J,261) as follows:

650—11.11(252J,261) Receipt of certificate of noncompliance. The board shall consider the receipt of ~~a certificate of noncompliance from the college student aid commission pursuant to Iowa Code sections 261.121 to 261.127 and 650—Chapter 34 of these rules or receipt~~ of a certificate of noncompliance of a support order from the child support recovery unit pursuant to Iowa Code chapter 252J and 650—Chapter 33 of these rules. License denial shall follow the procedures in the statutes and board rules as set forth in this rule.

This rule is intended to implement Iowa Code chapter 252J ~~and sections 261.121 to 261.127.~~

ITEM 3. Amend rule 650—14.4(147,153,272C) as follows:

650—14.4(147,153,272C) Grounds for nonrenewal. The board may refuse to renew a license, registration or radiography qualification on the following grounds:

14.4(1) to 14.4(4) No change.

14.4(5) Receipt of a certificate of noncompliance from the ~~college student aid commission or the~~ child support recovery unit of the department of human services in accordance with 650—Chapter 33 ~~and 650—Chapter 34.~~

This rule is intended to implement Iowa Code section 153.23 and chapters 147, 252J, ~~261,~~ and 272C.

ITEM 4. Amend rule 650—20.13(252J,261) as follows:

650—20.13(252J,261) Receipt of certificate of noncompliance. The board shall consider the receipt of ~~a certificate of noncompliance from the college student aid commission pursuant to Iowa Code sections 261.121 to 261.127 and 650—Chapter 34 or receipt~~ of a certificate of noncompliance of a support order from the child support recovery unit pursuant to Iowa Code chapter 252J and 650—Chapter 33. Registration denial or denial of renewal of registration shall follow the procedures in the statutes and board rules as set forth in this rule.

This rule is intended to implement Iowa Code chapter 252J ~~and sections 261.121 to 261.127.~~

ITEM 5. Amend subrule 29.15(6) as follows:

29.15(6) Receipt of a certificate of noncompliance from the ~~college student aid commission or the~~ child support recovery unit of the department of human services in accordance with 650—Chapter 33 ~~or 650—Chapter 34.~~

ITEM 6. Adopt the following **new** rule 650—30.5(272C):

650—30.5(272C) Prohibited grounds for discipline. The board shall not suspend or revoke the license of a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

DENTAL BOARD[650](cont'd)

ITEM 7. Amend **650—Chapter 30**, implementation sentence, as follows:
These rules are intended to implement ~~Iowa Code sections 261.121 to 261.127 and Iowa Code chapters 147; 153; 252J; 272C; as amended by 2019 Iowa Acts, Senate File 304; and 598.~~

ITEM 8. Rescind and reserve **650—Chapter 34**.

[Filed 10/8/19, effective 12/11/19]

[Published 11/6/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/6/19.

ARC 4748C

DENTAL BOARD[650]

Adopted and Filed

Rule making related to teledentistry

The Dental Board hereby amends Chapter 27, "Standards of Practice and Principles of Professional Ethics," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 147.76, 153.33 and 272C.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.2, 153.13, 153.15, 153.17 and 153.38.

Purpose and Summary

The primary purpose of these amendments is to define standards of practice for teledentistry. Technological advances have made it possible for dental services to be provided without an on-site dentist. New rule 650—27.12(153) expands access to dental services utilizing available technology. The new rule also establishes criteria to safely provide dental services while maintaining patient confidentiality.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 27, 2019, as **ARC 4359C**. An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on July 3, 2019, as **ARC 4534C**. A public hearing was held on July 24, 2019. Eleven individuals were in attendance. Of those who commented during the public hearing, five individuals were in favor of the rules as proposed in **ARC 4359C** and **ARC 4534C**. Three individuals were not in favor due to concerns related to the practice of orthodontics. Three individuals were in attendance who did not submit additional comments. The Board accepted written comments through July 24, 2019, which are summarized below.

The American Association of Orthodontists (AAO), and written comments from 23 orthodontists, suggested that only a dentist should be allowed to own any teledentistry platform and that the dentist providing treatment should reside within a 50- or 75-mile radius of the patient. Additionally, it was suggested that an in-person examination should be completed before using teledentistry.

Four written comments were received from dentists and hygienists in support of the amendments. They commented that teledentistry would benefit patients at federally qualified health care facilities, benefit rural Iowans, and increase access to dental care.

DENTAL BOARD[650](cont'd)

The American Teledentistry Association suggested that a static Internet questionnaire should be allowed to establish a dentist-patient relationship. The Association also suggested that informed consent criteria for teledentistry should be identical to those of brick-and-mortar facilities.

The Iowa Dental Association (IDA) suggested that an initial in-person examination should be required before using teledentistry. The IDA also suggested that a licensee should be closely located to the patient in case of an emergency situation. Additionally, the IDA suggested that patients should be informed of the dentist's identity and the dentist's practice location.

Delta Dental of Iowa was supportive of the amendments and commented that there is a need for teledentistry due to a dental workforce shortage. Delta Dental also commented that teledentistry would help meet the dental needs of Iowans. Delta Dental suggested that a dentist providing teledentistry services should have knowledge of local resources to assist with follow-up and emergency care.

The Iowa Primary Care Association (IPCA), the Iowa Dental Hygienists' Association (IDHA), and the Iowa Department of Public Health commented that they were in favor of the amendments and indicated that teledentistry will expand access to dental care.

Smile Direct Club suggested that the proposed definition of "asynchronous technology" (store-and-forward technology) should not be limited to licensees and registrants. Smile Direct Club also suggested that the proposed definition of "synchronous technology" be eliminated and that definitions for "teledentistry" and "teledentistry technology" be made consistent with similar rules established by the Iowa Board of Medicine.

Following further discussion by the Board, the Board voted on September 27, 2019, to adopt the rules with the changes described below. Based on the public comments received, the Board made the following changes:

- Revised the definition of "teledentistry" and removed other definitions;
- Updated language for clarity;
- Added more specific information regarding informed consent; and
- Removed the calibration training requirement.

Adoption of Rule Making

This rule making was adopted by the Board on September 27, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

The rules in this chapter establish the minimum requirements to meet the standard of care in the practice of dentistry. Waiver of these rules would pose a risk to members of the public since it would mitigate the minimum acceptable standard of the practice of dentistry.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on December 11, 2019.

DENTAL BOARD[650](cont'd)

The following rule-making actions are adopted:

ITEM 1. Renumber rule **650—27.12(17A,147,153,272C)** as **650—27.13(17A,147,153,272C)**.

ITEM 2. Adopt the following **new** rule 650—27.12(153):

650—27.12(153) Teledentistry. This rule establishes the standards of practice for teledentistry.

27.12(1) Definition.

“Teledentistry” means a dentist is providing or supervising dental services using technology when the patient is in another location.

27.12(2) Teledentistry authorized. A dentist may utilize teledentistry to provide dental care to patients located in Iowa. A dentist shall not provide dental care to a patient located in Iowa based solely on an Internet questionnaire consisting of a static set of questions that have been answered by the patient.

27.12(3) License or registration required. A dentist, dental hygienist, or dental assistant who uses teledentistry for a patient located in Iowa shall hold an active Iowa license or registration issued by the board.

27.12(4) General requirements. The standard of dental care is the same whether a patient is seen in person or through a teledentistry encounter. The use of teledentistry is not an expansion of the scope of practice for dental hygienists or dental assistants. A dentist who uses teledentistry shall utilize evidence-based standards of practice and practice guidelines to ensure patient safety, quality of care, and positive outcomes.

27.12(5) Informed consent. When teledentistry will be utilized, a dentist shall ensure informed consent covers the following additional information:

a. A description of the types of dental care services provided via teledentistry, including limitations on services;

b. The identity, contact information, practice location, licensure, credentials, and qualifications of all dentists, dental hygienists, and dental assistants involved in the patient’s dental care, which must be publicly displayed on a website or provided in writing to the patient; and

c. Precautions for technological failures or emergency situations.

27.12(6) Examination. A dentist may use teledentistry to conduct an examination for a new patient or for a new diagnosis if the examination is conducted in accordance with evidence-based standards of practice to sufficiently establish an informed diagnosis. A dentist shall not conduct a dental examination using teledentistry if the standard of care necessitates an in-person dental examination. Once an examination has been conducted, a dentist may delegate the services to be provided.

27.12(7) Follow-up and emergency care. A dentist who uses teledentistry shall have adequate knowledge of the nature and availability of local dental resources to provide appropriate follow-up care to a patient following a teledentistry encounter. A dentist shall refer a patient to an acute care facility or an emergency department when referral is necessary for the safety of the patient or in the case of emergency.

27.12(8) Supervision. With the exception of administering local anesthesia or nitrous oxide inhalation analgesia, or performing expanded functions, a dentist may delegate to and supervise services to be performed by a dental hygienist or dental assistant.

a. When direct supervision of a dental hygienist or dental assistant is required, a dentist may provide direct supervision using live video. A dentist is not required to directly supervise the entire delivery of dental care but must appear upon request using live video with a response time similar to what would be expected if the dentist were present in the treatment facility.

b. When general supervision of a dental hygienist or dental assistant is required, a dentist may utilize teledentistry.

c. When public health supervision is utilized, a supervising dentist may authorize use of teledentistry.

27.12(9) Patient records. A teledentistry encounter shall be clearly characterized as such in a patient record.

DENTAL BOARD[650](cont'd)

27.12(10) Privacy and security. All dentists, dental hygienists, and dental assistants shall ensure that the use of teledentistry complies with the privacy and security requirements of the Health Insurance Portability and Accountability Act.

ITEM 3. Amend **650—Chapter 27**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 153.34(7), ~~153.34(9)~~, 272C.3, 272C.4(1f) and 272C.4(6).

[Filed 10/8/19, effective 12/11/19]

[Published 11/6/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/6/19.

ARC 4749C

DENTAL BOARD[650]

Adopted and Filed

Rule making related to military service and veteran reciprocity

The Dental Board hereby amends Chapter 52, "Military Service and Veteran Reciprocity," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272C.4 as amended by 2019 Iowa Acts, House File 288, section 4.

Purpose and Summary

During the 2019 Legislative Session, a change was made to the Iowa Code to require agencies to establish procedures to expedite the licensing of an individual who is licensed in a similar profession or occupation in another state and who is the spouse of an active duty member of the military forces of the United States. This rule making implements this change.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 3, 2019, as **ARC 4525C**. The Board accepted written and oral comments through July 24, 2019. 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, 2019.

Fiscal Impact

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

Jobs Impact

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

DENTAL BOARD[650](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 rule 650—7.4(17A,147,153).

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on December 11, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 650—52.1(85GA, ch1116), parenthetical implementation statute, as follows:

650—52.1(85GA, ch1116 35) Definitions.

ITEM 2. Adopt the following new definition of “Spouse” in rule **650—52.1(85GA, ch1116)**:
“*Spouse*” means a spouse of an active duty member of the military forces of the United States.

ITEM 3. Amend rule 650—52.2(85GA, ch1116), parenthetical implementation statute, as follows:

650—52.2(85GA, ch1116 35) Military education, training, and service credit.

ITEM 4. Amend rule 650—52.3(85GA, ch1116) as follows:

650—52.3(85GA, ch1116 35) Veteran or spouse reciprocity.

52.3(1) A veteran or spouse with an unrestricted professional license in another jurisdiction may apply for licensure in Iowa through reciprocity. A veteran or spouse must pass any examinations required for licensure to be eligible for licensure through reciprocity. A fully completed application for licensure submitted by a veteran or spouse under this subrule shall be given priority and shall be expedited.

52.3(2) An application for licensure by reciprocity shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2) or as a spouse.

52.3(3) Upon receipt of a fully completed licensure application, the board shall promptly determine if the professional or occupational licensing requirements of the jurisdiction where the veteran or spouse is licensed are substantially equivalent to the licensing requirements in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examinations required for licensure.

52.3(4) The board shall promptly grant a license to the veteran or spouse if the veteran or spouse is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

DENTAL BOARD[650](cont'd)

52.3(5) If the board determines that the licensure requirements in the jurisdiction in which the veteran or spouse is licensed are not substantially equivalent to those required in Iowa, the board shall promptly inform the veteran or spouse of the additional experience, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

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

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

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

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

52.3(6) A veteran or spouse who is aggrieved by the board's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. No fees or costs shall be assessed against the veteran or spouse in connection with a contested case conducted pursuant to this subrule.

ITEM 5. Amend **650—Chapter 52**, implementation sentence, as follows:

These rules are intended to implement ~~2014 Iowa Acts, chapter 1116, division VI~~ Iowa Code chapter 35 and 2019 Iowa Acts, House File 288.

[Filed 10/8/19, effective 12/11/19]

[Published 11/6/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/6/19.

ARC 4750C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to definitions and forms

The Human Services Department hereby amends Chapter 13, "Program Evaluation," Iowa Administrative Code.

Legal Authority for Rule Making

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 234.6.

Purpose and Summary

These amendments clarify the programs that are reviewed by the Department of Human Services Quality Control Bureau. These amendments also update forms that are required in that process.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 14, 2019, as **ARC 4601C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on October 9, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on December 11, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend **441—Chapter 13**, preamble, as follows:

PREAMBLE

The purpose of this chapter is to define the methods and procedures used by the department to provide a systematic ~~method~~ process for measuring the validity of the eligibility determinations in the ~~aid to dependent children (ADC)~~ family investment program (FIP), ~~food stamp~~ assistance program, ~~child care assistance program~~, and ~~Medicaid programs~~ medical assistance program; to provide a basis for establishing state agency liability for errors ~~that exceed the national standard and state agency eligibility for enhanced funding~~; and to provide program information ~~which~~ that can be used by the department in determining a corrective action plan to ensure the rules and regulations are implemented in accordance with the ~~ADC, food stamp and Medicaid~~ program rules.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 2. Rescind rule 441—13.1(234,239B,249A) and adopt the following new rule in lieu thereof:

441—13.1(234,239B,249A,514I) Definitions.

“*Active case*” means a case that was receiving assistance for the month of review.

“*Case record*” means the record used to establish a client’s eligibility.

“*Client*” means a current or former applicant or recipient of the family investment program (FIP), food assistance program, child care assistance program, or medical assistance program.

“*Department*” means the Iowa department of human services.

“*Field investigation*” means a contact involving the public or other agencies to obtain information about the client’s circumstances for the appropriate month of review.

“*Local agency*” means the local or service area office of the department.

“*Medical assistance programs*” means those programs funded by Medicaid or the Children’s Health Insurance Program (CHIP).

“*Month of review*” means the specific calendar or fiscal month for which the assistance under review is received.

“*Negative case*” means a case that was terminated or denied assistance in the month of review.

“*Public assistance programs*” means those programs involving federal funds, i.e., family investment program (FIP), food assistance program, child care assistance program, and medical assistance program.

“*Random sample*” means a systematic (or every nth unit) sample drawn monthly for which each item in the universe has an equal probability of being selected. Sample size is determined by federal guidelines or state corrective action needs.

“*State policies*” means the rules and regulations used by the department to administer the family investment program (FIP), food assistance program, child care assistance program, and medical assistance program.

This rule is intended to implement Iowa Code sections 234.12, 239B.4, 249A.4 and 514I.4.

ITEM 3. Amend rule 441—13.2(234,239B,249A) as follows:

441—13.2(234,239B,249A,514I) Review of public assistance records by the department.

13.2(1) No change.

13.2(2) All pertinent case records within the department may be used by the reviewer to assist in substantiating an accurate reflection as to the correctness of the assistance ~~paid to~~ received by the client.

This rule is intended to implement Iowa Code sections 234.12, 239B.4, ~~and~~ 249A.4 and 514I.4.

ITEM 4. Amend rule 441—13.3(234,239B,249A) as follows:

441—13.3(234,239B,249A,514I) Who shall be reviewed. Any active or negative public assistance case may be reviewed at any time at the discretion of the department based upon a random sample to:

13.3(1) to 13.3(3) No change.

This rule is intended to implement Iowa Code sections 234.6, 234.12, 239B.4, ~~and~~ 249A.4, and 514I.4.

ITEM 5. Amend rule 441—13.4(234,239B,249A) as follows:

441—13.4(234,239B,249A,514I) Notification of review. On positive case actions, clients shall be notified, either orally or in writing, that their case has been selected for review when contact is required by federal guidelines, or when contact is allowed and additional information is required to complete the review. The client will be contacted in a negative case only if a discrepancy exists ~~which~~ that cannot be resolved from the case record and contact is allowed by federal guidelines.

This rule is intended to implement Iowa Code sections 234.6, 234.12, 239B.4, ~~and~~ 249A.4, and 514I.4.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 6. Rescind rule 441—13.5(234,239B,249A) and adopt the following new rule in lieu thereof:

441—13.5(234,239B,249A,514I) Review procedure. The department will select the appropriate method of conducting the review. Review procedures may include, but are not limited to, the following:

13.5(1) A random sampling of active and negative case actions shall be used to determine the case records to be studied.

13.5(2) The case record shall be analyzed for discrepancies and correct application of policies and procedures and shall be used as the basis for a field investigation.

13.5(3) Client interviews shall be required as follows:

- a. Personal interviews are required on all active food assistance reviews.
- b. An appointment letter may be sent to the client on department letterhead to schedule or confirm the appointment date, time and location.
- c. Client contacts are only required in negative case reviews when there is a discrepancy that cannot be resolved from the case record.

13.5(4) Collateral contacts are made whenever the client is unable to furnish information needed or the reviewer needs additional information to establish the correctness of eligibility and payment but only when allowed by federal guidelines. Verification to confirm the accuracy of statements or information may be obtained by documentary evidence or a contact with a third party.

a. The client shall be required to release specific information whenever necessary to verify information essential to the determination of eligibility and payment.

b. Should the client refuse to authorize the department to contact an informant to verify information that is necessary for the completion of the review, collateral contacts shall still be made through use of the general release statement contained in the financial support application or the review/recertification eligibility document.

This rule is intended to implement Iowa Code sections 234.6, 234.12, 239B.4, 249A.4, and 514I.4.

ITEM 7. Amend rule 441—13.6(234,239B,249A) as follows:

441—13.6(234,239B,249A) Failure to cooperate. Client cooperation with quality control is a program eligibility requirement as set forth in 441—~~subrule 40.7(4), paragraph “d,” and rules rule 441—65.3(234) and 441—76.8(249A).~~ When quality control determines that the client has refused to cooperate with the review process, the client is no longer eligible for the program benefits and will not be eligible for the program benefits until the client has cooperated.

This rule is intended to implement Iowa Code ~~sections~~ section 234.12, ~~239B.4 and 249A.4.~~

ITEM 8. Amend rule 441—13.7(234,239B,249A) as follows:

441—13.7(234,239B,249A,514I) Report of findings. The quality control review findings are utilized by the department in the following ways:

13.7(1) The local agency will use the findings in taking the appropriate case actions where an overpayment or underpayment has been found in a client’s case record.

13.7(2) The department will use the overall findings to identify ~~error-prone~~ error-prone program issues to be used in planning ~~their~~ its corrective action plan.

13.7(3) The department will use the findings of the overall sample period to determine the error rate used to establish state agency liability ~~or enhanced funding.~~

This rule is intended to implement Iowa Code sections 234.12, 239B.4, ~~and 249A.4, and 514I.4.~~

ITEM 9. Amend rule 441—13.8(234,239B,249A) as follows:

441—13.8(234,237A,239B,249A,514I) Federal rereview. A sample of ~~the cases selected by the department for review will~~ may also be reviewed by the applicable federal agency to determine the correctness of the department’s action or of the department’s review of the case.

HUMAN SERVICES DEPARTMENT[441](cont'd)

This rule is intended to implement Iowa Code sections 234.12, 237A.12, 239B.4, 249A.4, and 514I.4.

[Filed 10/17/19, effective 12/11/19]

[Published 11/6/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/6/19.

ARC 4751C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to forms

The Human Services Department hereby amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Chapter 80, "Procedure and Method of Payment," and Chapter 81, "Nursing Facilities," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted 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.

Purpose and Summary

These amendments provide updated form names, numbers, and terminology and remove references to form names and numbers that are no longer in use.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 14, 2019, as **ARC 4600C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on October 9, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

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

Effective Date

This rule making will become effective on December 11, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend subparagraph **79.3(2)“d”(33)** as follows:

(33) Case management services, including HCBS case management services:

~~1. Form 470-3956, MR/CMI/DD Case Management Service Authorization Request, for services authorized before May 1, 2007.~~

~~2.~~ 1. Notice of decision for service authorization.

~~3.~~ 2. Service notes or narratives.

~~4.~~ 3. Social history.

~~5.~~ 4. Comprehensive service plan.

~~6.~~ 5. Reassessment of member needs.

~~7.~~ 6. Incident reports in accordance with 441—subrule 24.4(5).

~~8.~~ 7. Other service documentation as applicable.

ITEM 2. Amend subparagraph **79.3(2)“d”(38)** as follows:

(38) Hearing aid dealer and audiologist services:

1. Physician examinations and audiological testing (Form 470-0361, Sections A, B, and C).

~~2. Documentation of hearing aid evaluation and selection (Form 470-0828).~~

~~3.~~ 2. Waiver of informed consent.

~~4.~~ 3. Prior authorization documentation.

~~5.~~ 4. Service or office notes or narratives.

ITEM 3. Amend subparagraphs **79.8(1)“c”(1)** and **(2)** as follows:

(1) Use Form ~~470-3970~~ 470-0829, Prior Authorization Attachment Control, as the cover sheet for the paper attachments or supporting clinical documentation; and

(2) Reference on Form ~~470-3970~~ 470-0829 the attachment control number submitted on the ASC X12N 278 electronic transaction.

ITEM 4. Amend paragraph **80.2(2)“b”** as follows:

b. All other nursing facilities and intermediate care facilities for ~~the mentally retarded persons with an intellectual disability~~ shall file claims on Form ~~470-0039, Iowa Medicaid Long Term Care Claim~~ using an electronic version of Form UB-04 CMS-1450.

ITEM 5. Amend subparagraph **81.6(16)“g”(9)** as follows:

(9) Source of measurements. Source reports are due to the department by May 1 of each year. For those measures whose source is self-certification, the data shall be drawn from Form ~~470-4828, Nursing Facility Medicaid Pay for Performance Self-Certification Report~~, a report submitted by the facility to IME. The independent party that collects and compiles the results of the resident/family survey shall communicate the results to IME on Form 470-3891, Nursing Facility Opinion Survey Transmittal. The department shall request required source reports from the long-term care ombudsman and the department of inspections and appeals (DIA).

[Filed 10/17/19, effective 12/11/19]

[Published 11/6/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/6/19.

ARC 4752C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rule making related to preinspection visits and application process for child care centers**

The Human Services Department hereby amends Chapter 109, “Child Care Centers,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 234.6.

Purpose and Summary

These amendments document the expectation of a preinspection visit prior to granting a new child care center permission to open. Preinspection visits occur in practice already. These amendments also clarify the expectation around Department receipt of the regulatory fee during application and when and where the fee is submitted. The amendments better align rules to current practice.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 14, 2019, as **ARC 4603C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on October 9, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on December 11, 2019.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The following rule-making actions are adopted:

ITEM 1. Amend subrule 109.2(1) as follows:

109.2(1) Application for license.

a. and *b.* No change.

c. When a center makes a sufficient application for an initial license, the center may operate for a period of up to 120 calendar days from the date of issuance of the form granting permission to open without a license, pending a final licensing decision. A center has made a sufficient application when it has had an on-site visit and has submitted the following to the department:

(1) to (4) No change.

~~(5) The regulatory fee as specified in subrule 109.2(7), and the fee is received by the department's division of fiscal management.~~

d. Applicants shall submit the regulatory fee as specified in subrule 109.2(7) to the department's division of fiscal management.

~~*d. e.* Applicants shall be notified of approval or denial of initial applications within 120 days from the date the application is submitted.~~

(1) and (2) No change.

~~*e. f.* The department shall not act on a licensing application for 12 months after an applicant's child care center license has been denied or revoked.~~

f. g. When the department has denied or revoked a license, the applicant or person shall be prohibited from involvement with child care unless the department specifically permits involvement through a record check decision.

ITEM 2. Amend paragraph **109.2(4)“f”** as follows:

f. The regulatory fee as specified in subrule 109.2(7) is not received by the department's division of fiscal management by within 60 calendar days from the due date indicated on the child care center licensing fee invoice.

ITEM 3. Amend subrule 109.2(7) as follows:

109.2(7) Regulatory fees. A fee based upon center capacity is due to the department ~~before the~~ at the time of issuance of the license in accordance with this subrule.

a. to *c.* No change.

d. Payment. The center shall return the child care center licensing fee invoice to the department with the licensing fee payment within ~~30~~ 60 calendar days from the date ~~of~~ on the ~~licensing consultant's or designee's signature on the~~ invoice. Payment may be in the form of cash, check, money order, or cashier's check. Regulatory fees are nonrefundable and nontransferable.

~~(1) Payment must be received before the department will issue a full or provisional license.~~

~~(2) Regulatory fees are nonrefundable and nontransferable.~~

ITEM 4. Amend rule 441—109.3(237A), introductory paragraph, as follows:

441—109.3(237A) Inspection and evaluation. The department shall conduct an unannounced on-site visit in order to make a licensing recommendation for all initial and renewal applications for licensure and shall determine compliance with licensing standards imposed by licensing laws and these rules when a complaint is received.

[Filed 10/17/19, effective 12/11/19]

[Published 11/6/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/6/19.

ARC 4753C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rule making related to child abuse mandatory reporter training for child care providers**

The Human Services Department hereby amends Chapter 109, “Child Care Centers,” Chapter 110, “Child Development Homes,” and Chapter 120, “Child Care Homes,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 237A.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, House File 731.

Purpose and Summary

These amendments change child abuse mandatory reporter training requirements for child care providers from once every five years to once every three years with modified expectations. The amendments remove the five-year requirement and state that certification must be maintained. Additionally, the amendments require all child care providers to participate in minimum health and safety training as a preservice or orientation requirement. The requirement for child care providers to take preservice training every five years without training credit is removed. Child care providers will be able to continue their professional development requirements without repeating the same training and may also receive credit for the training taken.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 14, 2019, as **ARC 4602C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on October 9, 2019.

Fiscal Impact

No fiscal impact is anticipated because the Department will continue to contract with agencies to provide the necessary provider training. Each child care provider will determine the provider’s own ongoing professional development needs while maintaining the minimum hour and content requirements identified in the rules.

Jobs Impact

This rule making will reduce the financial burden to child care providers who would have previously been required to take 12 hours of mandated orientation/preservice professional development without receiving training credit. Child care providers will take minimum hour and content area requirements and approved training will count toward the minimum requirements.

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).

HUMAN SERVICES DEPARTMENT[441](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 December 11, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **109.7(1)“e”** as follows:

e. Minimum health and safety trainings, approved by the department, in the following areas ~~and every five years thereafter:~~

(1) to (10) No change.

Minimum health and safety training may be required ~~prior to the five-year period~~ if content has significant changes which warrant that the training be renewed.

ITEM 2. Amend paragraph **109.7(3)“e”** as follows:

e. Minimum health and safety trainings, approved by the department, in the following areas:

(1) Prevention and control of infectious disease, including immunizations.

(2) Prevention of sudden infant death syndrome and use of safe sleep practices.

(3) Administration of medication, consistent with standards for parental consent.

(4) Prevention of and response to emergencies due to food and allergic reactions.

(5) Building and physical-premises safety, including identification of and protection from hazards that can cause bodily injury, such as electrical hazards, bodies of water, and vehicular traffic.

(6) Prevention of shaken baby syndrome and abusive head trauma.

(7) Emergency preparedness and response planning for emergencies resulting from a natural disaster or a human-caused event.

(8) Handling and storage of hazardous materials and the appropriate disposal of biocontaminants.

(9) Precautions in transporting children.

(10) Child development, on or after August 1, 2017.

ITEM 3. Amend paragraph **110.9(2)“c”** as follows:

c. Certification of a minimum of two hours of approved training relating to the identification and reporting of child abuse as required by Iowa Code section 232.69, completed within three months of employment ~~and every five years thereafter, as required by Iowa Code section 232.69.~~

ITEM 4. Amend paragraph **110.9(3)“c”** as follows:

c. Certification of a minimum of two hours of approved training relating to the identification and reporting of child abuse as required by Iowa Code section 232.69, completed within three months of employment ~~and every five years thereafter, as required by Iowa Code section 232.69.~~

ITEM 5. Amend paragraph **110.10(1)“a”** as follows:

a. Prior to registration ~~and every five years thereafter~~, the provider shall complete minimum health and safety trainings, approved by the department, in all of the following areas:

(1) to (10) No change.

ITEM 6. Amend paragraph **110.10(1)“b”** as follows:

b. Prior to registration ~~and every five years thereafter~~, the provider shall complete two hours of Iowa's training for mandatory reporting of child abuse as required by Iowa Code section 232.69. The provider shall maintain a valid certificate indicating expiration date.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 7. Rescind paragraph **110.10(1)“e.”**

ITEM 8. Reletter paragraphs **110.10(1)“f”** and **“g”** as **110.10(1)“e”** and **“f.”**

ITEM 9. Amend relettered paragraph **110.10(1)“e”** as follows:

e. Minimum health and safety training may be required ~~prior to the five-year period~~ if content has significant changes which warrant that the training be renewed.

ITEM 10. Amend subrule 120.10(1), introductory paragraph, as follows:

120.10(1) Prior to the issuance of a provider agreement ~~and every five years thereafter~~, the provider shall complete minimum health and safety trainings, approved by the department, in all of the following content areas:

ITEM 11. Amend subrule 120.10(2) as follows:

120.10(2) Prior to issuance of a provider agreement ~~and every five years thereafter~~, the provider shall complete two hours of Iowa’s training for mandatory reporting of child abuse as required by Iowa Code section 232.69. The provider shall maintain a valid certificate indicating expiration date.

ITEM 12. Amend subrule 120.10(4) as follows:

120.10(4) Minimum health and safety training may be required ~~prior to the five-year period~~ if content has significant changes which warrant that the training be renewed.

[Filed 10/17/19, effective 12/11/19]

[Published 11/6/19]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/6/19.

ARC 4754C

IOWA PUBLIC INFORMATION BOARD[497]

Adopted and Filed

Rule making related to board actions and exempt sessions

The Iowa Public Information Board hereby amends Chapter 2, “Complaint Investigation and Resolution Procedures,” and Chapter 8, “Open Meetings,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

The Board is removing paragraph 2.2(4)“e” from Chapter 2. The Board is also adding rule 497—8.3(21,22) relating to exempt sessions to Chapter 8. The new rule explains Iowa Code section 21.9.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 11, 2019, as **ARC 4655C**. 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 October 17, 2019.

IOWA PUBLIC INFORMATION BOARD[497](cont'd)

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the 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 December 11, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 2.2(4) as follows:

2.2(4) Board action. Upon receipt and review of the staff investigative report and any recommendations, the board may:

- a. Redirect the matter for further investigation;
- b. Dismiss the matter for lack of probable cause to believe a violation has occurred;
- c. Make a determination that probable cause exists to believe a violation has occurred, but, as an exercise of administrative discretion, dismiss the matter; or
- d. Make a determination that probable cause exists to believe a violation has occurred, designate a prosecutor and direct the issuance of a statement of charges to initiate a contested case proceeding; or
- e. ~~Direct administrative resolution of the matter under subrule 2.1(6) without making a determination as to whether a violation occurred.~~

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

497—8.3(21,22) Exempt sessions.

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

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

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

8.3(4) The purpose of an exempt session is to allow a governmental body to formulate its position on the terms and conditions of employment for non-union employees in private. An exemption from the open meetings law for this purpose parallels the exemption provided by Iowa Code chapter 20 for governmental bodies negotiating with employee unions. Meetings to evaluate the professional

IOWA PUBLIC INFORMATION BOARD[497](cont'd)

competency of an individual whose appointment, hiring, performance, or discharge is being considered are subject to the requirements of Iowa Code section 21.5(1) "i."

This rule is intended to implement Iowa Code section 21.9.

[Filed 10/18/19, effective 12/11/19]

[Published 11/6/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/6/19.

ARC 4755C

NURSING BOARD[655]

Adopted and Filed

Rule making related to prohibited grounds for discipline

The Board of Nursing hereby amends Chapter 4, "Discipline," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 17A.3 and 272C.4 as amended by 2019 Iowa Acts, Senate File 304.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272C.4(10) as amended by 2019 Iowa Acts, Senate File 304.

Purpose and Summary

2019 Iowa Acts, Senate File 304, amends Iowa Code section 272C.4(10) and requires the Board to adopt rules to prohibit the suspension or revocation of a license issued by the Board to a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 14, 2019, as **ARC 4597C**. A public hearing was held on September 13, 2019, at 9 a.m. at the Board's office, 400 S.W. Eighth Street, Suite B, 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 October 9, 2019.

Fiscal Impact

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

Jobs Impact

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

NURSING BOARD[655](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 655—Chapter 15.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on December 11, 2019.

The following rule-making action is adopted:

Adopt the following **new** rule 655—4.9(17A,147,152,272C):

655—4.9(17A,147,152,272C) Prohibited grounds for discipline. The board shall not suspend or revoke the license of a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

[Filed 10/16/19, effective 12/11/19]

[Published 11/6/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/6/19.

ARC 4756C

NURSING BOARD[655]

Adopted and Filed

Rule making related to removal of licensure sanctions for nonpayment of student debt

The Board of Nursing hereby amends Chapter 17, "Nonpayment of Child Support, Student Loan, or State Debt," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 17A.3 and 272C.4 as amended by 2019 Iowa Acts, Senate File 304.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272C.4(10) as amended by 2019 Iowa Acts, Senate File 304.

Purpose and Summary

2019 Iowa Acts, Senate File 304, amends Iowa Code section 272C.4 and removes the requirement that licensing boards impose discipline against a licensee who has defaulted on repayment or service obligation under any federal or state educational loan or service-conditional scholarship program. This rule making rescinds the rules in Division II of Chapter 17, which implement the prior requirement that

NURSING BOARD[655](cont'd)

the Board discipline a licensee for nonpayment of a student loan. This rule making also renumbers subsequent rules accordingly.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 14, 2019, as **ARC 4598C**. A public hearing was held on September 13, 2019, at 9 a.m. at the Board's office, 400 S.W. Eighth Street, Suite B, 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 October 9, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 655—Chapter 15.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on December 11, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend **655—Chapter 17**, title, as follows:

~~NONPAYMENT OF CHILD SUPPORT, STUDENT LOAN, OR STATE DEBT~~

ITEM 2. Rescind **655—Chapter 17**, Division II heading.

ITEM 3. Rescind rules **655—17.4(261)** to **655—17.6(261)**.

ITEM 4. Amend **655—Chapter 17**, Division III heading, as follows:

DIVISION III
NONPAYMENT OF STATE DEBT

ITEM 5. Renumber rules **655—17.7(272D)** to **655—17.9(272D)** as **655—17.4(272D)** to **655—17.6(272D)**.

ITEM 6. Amend renumbered rule 655—17.4(272D), introductory paragraph, as follows:

655—17.4(272D) Definitions. The following definitions shall apply to rules ~~17.8(272D) and 17.9(272D)~~ of this chapter 655—17.5(272D) and 655—17.6(272D).

NURSING BOARD[655](cont'd)

ITEM 7. Amend **655—Chapter 17**, implementation sentence, as follows:
These rules are intended to implement Iowa Code chapters 252J, ~~261~~, and 272D.

[Filed 10/16/19, effective 12/11/19]

[Published 11/6/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/6/19.

ARC 4757C

NURSING BOARD[655]

Adopted and Filed

Rule making related to expedited licensure for military spouse

The Board of Nursing hereby amends Chapter 18, "Military Service and Veteran Reciprocity," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 17A.3 and 272C.4 as amended by 2019 Iowa Acts, House File 288.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272C.4 as amended by 2019 Iowa Acts, House File 288.

Purpose and Summary

2019 Iowa Acts, House File 288, creates new Iowa Code section 272C.4(12A), which requires the Board to establish procedures by January 1, 2020, to expedite the licensing of an individual who is licensed as a nurse in another state and who is the spouse of an active duty member of the military forces of the United States. The amendments to Chapter 18 establish a procedure for providing priority to, and expedited review of, an application for licensure submitted by a military spouse as described above who has a nursing license in another jurisdiction.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 14, 2019, as **ARC 4599C**. A public hearing was held on September 13, 2019, at 9 a.m. at the Board's office, 400 S.W. Eighth Street, Suite B, 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 October 9, 2019.

Fiscal Impact

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

Jobs Impact

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

NURSING BOARD[655](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 655—Chapter 15.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on December 11, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 655—18.1(85GA,ch1116), parenthetical implementation statute, as follows:

655—18.1(85GA,~~ch1116~~ 272C) Definitions.

ITEM 2. Adopt the following new definition of “Spouse” in rule **655—18.1(85GA,~~ch1116~~)**:

“*Spouse*” means the spouse of an active duty member of the military forces of the United States.

ITEM 3. Amend rule 655—18.2(85GA,ch1116), parenthetical implementation statute, as follows:

655—18.2(85GA,~~ch1116~~ 272C) Military education, training, and service credit.

ITEM 4. Amend rule 655—18.3(85GA,ch1116) as follows:

655—18.3(85GA,~~ch1116~~ 272C) Veteran and active duty military spouse reciprocity.

18.3(1) A veteran or spouse with a nursing license in another jurisdiction may apply for licensure in Iowa through reciprocity (endorsement) pursuant to 655—Chapter 3. A veteran or spouse must pass any examinations required for licensure to be eligible for licensure through reciprocity. A fully completed application for licensure submitted by a veteran or spouse under this subrule shall be given priority and shall be expedited.

18.3(2) Such an application shall contain all of the information required of all applicants for licensure who hold licenses in other jurisdictions and who are applying for licensure by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary histories, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2) or as a spouse as defined in rule 655—18.1(272C).

18.3(3) Upon receipt of a fully completed licensure application, the board shall promptly determine if the professional or occupational licensing requirements of the jurisdiction where the ~~veteran~~ applicant is licensed are substantially equivalent to the licensing requirements in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examinations required for licensure.

18.3(4) The board shall promptly grant a license to the ~~veteran~~ applicant if the ~~veteran~~ applicant is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

NURSING BOARD[655](cont'd)

18.3(5) If the board determines that the licensing requirements in the jurisdiction in which the veteran applicant is licensed are not substantially equivalent to those required in Iowa, the board shall promptly inform the veteran applicant of the additional experience, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

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

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

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

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

18.3(6) A veteran or spouse who is aggrieved by the board's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. No fees or costs shall be assessed against the veteran applicant in connection with a contested case conducted pursuant to this subrule.

ITEM 5. Amend **655—Chapter 18**, implementation sentence, as follows:

These rules are intended to implement ~~2014 Iowa Acts, chapter 1116, division VI~~ Iowa Code section 272C.4.

[Filed 10/16/19, effective 12/11/19]

[Published 11/6/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/6/19.

ARC 4758C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to driver's license sanctions

The Department of Transportation hereby amends Chapter 400, "Vehicle Registration and Certificate of Title," and Chapter 615, "Sanctions," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 261.126 and 307.12.

TRANSPORTATION DEPARTMENT[761](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 261.126 as amended by 2019 Iowa Acts, Senate File 304, section 3.

Purpose and Summary

These amendments implement 2019 Iowa Acts, Senate File 304, section 3, which repeals Iowa Code sections 261.121 through 261.127 effective July 1, 2019. Iowa Code section 261.126 authorized the Department to issue a suspension of a person's driver's license or vehicle registration privileges based on receipt of a certificate of noncompliance from the Iowa College Student Aid Commission for delinquent student loans. The Iowa College Student Aid Commission has not exercised the option to trigger a license or vehicle registration suspension for failure to satisfy student debt since 2012. The amendments also remove unnecessary references to 2018 Iowa Acts, House File 2304 and House File 2502.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 28, 2019, as **ARC 4625C**. 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 8, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on December 11, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 400.45(3) as follows:

400.45(3) In accordance with Iowa Code ~~sections~~ section 252J.8 ~~and 261.126~~, the department shall suspend or deny the issuance or renewal of registration and plates upon receipt of a certificate of noncompliance from the child support recovery unit ~~or the college student aid commission~~.

a. The suspension or denial shall become effective 30 days after notice to the vehicle owner and continue until the department receives a withdrawal of the certificate of noncompliance from the child support recovery unit ~~or the college student aid commission~~.

TRANSPORTATION DEPARTMENT[761](cont'd)

b. No change.

ITEM 2. Amend rule **761—400.45(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 252J.1, 252J.8, 252J.9, ~~261.126~~, 321.101, 321.101A and 321.127.

ITEM 3. Amend paragraph **615.17(2)“e,”** introductory paragraph, as follows:

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

ITEM 4. Amend rule **761—615.17(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.210₂, 321.323A₂, ~~as amended by 2018 Iowa Acts, House File 2304, sections 1 to 4;~~ 321.372; and 321.491.

ITEM 5. Rescind and reserve subrule **615.24(2)**.

ITEM 6. Amend rule **761—615.24(252J,261)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 252J.1, 252J.8, and 252J.9, ~~261.126 and 261.127.~~

ITEM 7. Amend rule **761—615.29(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.209₂, 321.212₂, ~~as amended by 2018 Iowa Acts, House File 2502, section 96;~~ 321.261; and 707.6A.

ITEM 8. Amend subrule 615.45(1) as follows:

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

a. to j. No change.

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

l. and m. No change.

[Filed 10/8/19, effective 12/11/19]

[Published 11/6/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/6/19.

ARC 4759C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to minor driver's licenses

The Department of Transportation hereby amends Chapter 602, “Classes of Driver’s Licenses,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 307.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321.194 as amended by 2019 Iowa Acts, Senate File 140, sections 1 and 2.

TRANSPORTATION DEPARTMENT[761](cont'd)

Purpose and Summary

The amendments implement 2019 Iowa Acts, Senate File 140, which increases the driving distance that a student with a minor's school license may drive when the student attends an accredited nonpublic school (private school). Prior to the 2019 legislation, a student attending a private school was limited to driving no more than a 25-mile driving distance between the student's residence and school. Senate File 140, which was effective July 1, 2019, provides that a student attending a private school will be limited to driving no more than a 50-mile driving distance between the student's residence and school.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 28, 2019, as **ARC 4624C**. 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 8, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on December 11, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 761—602.2(321), introductory paragraph, as follows:

761—602.2(321) Information and forms. Applications, forms and information about driver's licensing are available at any driver's license service center. Assistance is also available by mail from the Driver and Identification Services Bureau, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)244-8725; by facsimile at (515)239-1837; or on the department's website at www.iowadot.gov.

ITEM 2. Amend subparagraph **602.26(4)“a”(2)** as follows:

(2) If the applicant attends an accredited nonpublic school, the statement of necessity provided to the department certifies that a need exists to drive from each residence, that the school of enrollment identified in the statement of necessity meets the geographic requirements for an applicant attending an accredited nonpublic school set forth in Iowa Code section 321.194 as determined by the primary

TRANSPORTATION DEPARTMENT[761](cont'd)

residence identified in the statement of necessity, and that the secondary residence identified in the statement of necessity is no more than 25 50 miles driving distance from the school of enrollment.

ITEM 3. Amend rule **761—602.26(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.177₂; 321.180B₂; 321.189₂; 321.194 as amended by 2019 Iowa Acts, Senate File 140, sections 1 and 2; and 321.196.

[Filed 10/8/19, effective 12/11/19]

[Published 11/6/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/6/19.

ARC 4760C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to OWI and implied consent

The Department of Transportation hereby amends Chapter 620, "OWI and Implied Consent," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 321J.20.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321J.20 and 901D.7 as amended by 2019 Iowa Acts, Senate File 364, sections 1 and 2.

Purpose and Summary

The amendments update Chapter 620 to conform the rules with 2019 Iowa Acts, Senate File 364, sections 1 and 2, which amended Iowa Code sections 321J.20 and 901D.7; correct the name of the Driver and Identification Services Bureau; and remove unnecessary language. The 2019 amendment to Iowa Code section 321J.20 provides that the length of participation in the 24/7 sobriety program, which may be a condition of a temporary restricted license issued to a person whose driver's license has been revoked for certain operating while intoxicated (OWI) offenses, shall continue for the time ordered by the court under Iowa Code section 901D.7. The 2019 amendment to Iowa Code section 901D.7 provides that the length of participation in the 24/7 sobriety program shall be at least 90 days, with a minimum 30-day period during which the person must not have missed or failed an alcohol or drug test under the program immediately preceding discharge from the program. Iowa Code section 321J.20 was also amended in Senate File 364, section 1, to require that the law enforcement agency administering the 24/7 sobriety program within a participating jurisdiction notify the Department when the person's participation in the program has been completed.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 28, 2019, as **ARC 4623C**. No 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 8, 2019.

TRANSPORTATION DEPARTMENT[761](cont'd)

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on December 11, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 761—620.2(321J) as follows:

761—620.2(321J) Information and location. Applications, forms, information, assistance, and answers to questions relating to this chapter are available by mail from the Driver and Identification Services Bureau, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)244-8725; or by facsimile at (515)239-1837.

ITEM 2. Amend paragraph **620.3(1)“b”** as follows:

b. To apply for a temporary restricted license, an applicant shall, at any time before or during the revocation period, submit application Form 430400 to the driver and identification services at the address in 761—620.2(321J) bureau. The application form should be furnished by the arresting officer. It may also be obtained upon oral or written request to the driver and identification services bureau.

ITEM 3. Amend subrule 620.3(4) as follows:

620.3(4) Denial. A person who has been denied a temporary restricted license or who contests the restrictions imposed by the department may request an informal settlement conference by submitting a written request to the director of the driver and identification services at the address given in 761—620.2(321J) bureau. Following an unsuccessful informal settlement or instead of that procedure, the person may request a contested case hearing in accordance with rule 761—620.4(321J).

ITEM 4. Amend subrule 620.4(1) as follows:

620.4(1) Contested case hearing.

a. A person may request a contested case hearing by checking the appropriate box on Form 432018 and submitting it to the department or by submitting a written request to the director of the driver and identification services at the address given in 761—620.2(321J) bureau. The request shall include the person's name, date of birth, ~~driver~~ driver's license number, complete address and telephone number.

b. No change.

c. A request for a hearing to contest a revocation shall be submitted within ten days after receipt of the revocation notice. The request shall be deemed timely submitted if it is delivered to the director

TRANSPORTATION DEPARTMENT[761](cont'd)

of the driver and identification services bureau or properly addressed and postmarked within this time period.

d. and *e.* No change.

ITEM 5. Amend subrule 620.4(2) as follows:

620.4(2) Appeal. A decision by a presiding officer shall become the final decision of the department and shall be binding on the department and the person who requested the hearing unless either appeals the decision in accordance with this subrule.

a. and *b.* No change.

c. An appeal of the presiding officer's decision shall be submitted in writing by sending the original and one copy of the appeal to the director of the driver and identification services ~~at the address given in 761—620.2(321J)~~ bureau.

d. An appeal shall be deemed timely submitted if it is delivered to the director of the driver and identification services bureau or properly addressed and postmarked within ten days after receipt of the presiding officer's decision.

e. The director of the driver and identification services bureau shall forward the appeal to the director of transportation. The director of transportation may affirm, modify or reverse the decision of the presiding officer, or may remand the case to the presiding officer.

f. No change.

ITEM 6. Amend subrule 620.4(5) as follows:

620.4(5) Petition to reopen a hearing.

a. A petition to reopen a hearing pursuant to Iowa Code section 17A.16 shall be submitted in writing to the director of the driver and identification services ~~at the address in 761—620.2(321J)~~ bureau. If a petition is based on a court order, a copy of the court order shall be submitted with the petition. If a petition is based on new evidence, the petitioner shall submit a concise statement of the new evidence and the reason(s) for the unavailability of the evidence at the original hearing.

b. No change.

c. A person may appeal a denial of the petition to reopen. The appeal shall be deemed timely if it is delivered to the director of the driver and identification services ~~at the address in 761—620.2(321J)~~ bureau or properly addressed and postmarked within 20 days after issuance of the decision denying the petition to reopen.

ITEM 7. Amend subrule 620.17(2) as follows:

620.17(2) Duration. ~~Unless otherwise provided in Iowa Code chapter 901D or Iowa Code section 321J.20, the person shall be required to participate in the sobriety and drug monitoring program for the length of time that an ignition interlock device is required as provided in Iowa Code section 321J.20~~ The requirement to participate in and comply with the sobriety and drug monitoring program shall continue for the time period required pursuant to Iowa Code section 901D.7 as amended by 2019 Iowa Acts, Senate File 364, section 2. The participating local enforcement agency shall notify the department when the person has completed participation in the sobriety and drug monitoring program.

ITEM 8. Amend ~~761—~~**Chapter 620**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A, 321J as amended by 2019 Iowa Acts, Senate File 364, section 1; and 901D as amended by 2019 Iowa Acts, Senate File 364, section 2; and sections 321.193, 321.201, 321.376 and 707.6A.

[Filed 10/8/19, effective 12/11/19]

[Published 11/6/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/6/19.

ARC 4761C

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, 2018 Iowa Acts, Senate File 2366, section 4.

Purpose and Summary

2018 Iowa Acts, Senate File 2366, section 4, removed Iowa Code section 35A.13(6)“l.” This rule making removes the related provision by rescinding subrule 14.4(12).

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 24, 2019, as **ARC 4405C**. 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 December 11, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on December 11, 2019.

The following rule-making action is adopted:

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

Rescind and reserve subrule **14.4(12)**.

[Filed 10/17/19, effective 12/11/19]

[Published 11/6/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/6/19.