

IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

The Bulletin may also contain public funds interest rates [12C.6]; 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.

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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 2021

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

PRINTING SCHEDULE FOR IAB

| <u>ISSUE NUMBER</u> | <u>SUBMISSION DEADLINE</u> | <u>ISSUE DATE</u> |
|---------------------|----------------------------|-------------------|
| 16 | Wednesday, January 6, 2021 | January 27, 2021 |
| 17 | Friday, January 22, 2021 | February 10, 2021 |
| 18 | Friday, February 5, 2021 | February 24, 2021 |

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****

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, January 8, 2020, at 9 a.m. in Room 103, State Capitol, Des Moines, Iowa. Instructions for participation by videoconference can be found here: www.legis.iowa.gov/committees/meetings/meetingsListComm?groupID=705&ga=88&session=2. For more information, contact Jack Ewing at Jack.Ewing@legis.iowa.gov. The following rules will be reviewed:

ACCOUNTANCY EXAMINING BOARD[193A]

Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

Denial of licensure; criminal convictions, 3.1(2), 3.4(3), 4.1(2), 4.2(3), 5.1(1), 5.3, 6.3(3),
6.4(1), 7.2(3), 8.1, 12.1, 13.5(1), 14.3(11) Notice **ARC 5357C** 12/30/20

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COMMERCE DEPARTMENT[181]"umbrella"

Filling and selling of mixed drinks or cocktails in a container other than the original
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Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

Board administration; license renewal; continuing education, amendments to chs 1 to 4, 6, 7
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DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Licensure; criminal convictions, amend chs 11, 20, 30, 52; adopt ch 50 Notice **ARC 5371C** 12/30/20
Clinical examinations on manikins; dental and dental hygiene applicant examinations,
11.2(2), 11.3(2), 11.5(2), 11.6(2), 11.7, 12.1, 12.4 Filed **ARC 5366C** 12/30/20
Continuing education—volunteer dental services, 25.5(2), 25.6(1), 25.9(8) Filed **ARC 5318C** 12/16/20

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Career and technical education instructor qualifications, 22.9(3)"c" Filed **ARC 5323C** 12/16/20
Unethical practice, 25.3(6) Filed **ARC 5324C** 12/16/20

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Funding for children residing in state institutions or mental health institutes—removal of
reference to Iowa juvenile home, 34.1, 34.2, 34.4(2), 34.6(3)"d" Filed **ARC 5328C** 12/16/20
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School leadership standards for administrators, 83.10 Filed **ARC 5331C** 12/16/20
Corporal punishment, physical restraint, seclusion, and other physical contact with students,
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ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Professional Licensing and Regulation Bureau[193]
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| Prescription drug automatic refill program, 78.2(6)“b”(2) <u>Filed</u> ARC 5364C | 12/30/20 |
| Home health agency services—ordering and signing treatment plan, 78.9 <u>Notice</u> ARC 5336C | 12/16/20 |
| Uniform prior authorization process, 78.10, 78.28, 79.8 <u>Filed</u> ARC 5362C | 12/30/20 |
| Child development homes; child care homes, 110.6(3), 110.8(3)“e,” 110.14(1)“f,” 110.15(1)“e,” 120.8(3)“e” <u>Notice</u> ARC 5337C | 12/16/20 |
| Family support statewide database—departmental use, 155.4(2) <u>Filed</u> ARC 5363C | 12/30/20 |

INSPECTIONS AND APPEALS DEPARTMENT[481]

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| Inspection standards for food establishments—adoption by reference of 2017 food code, 30.2, 31.1, 31.4 <u>Filed</u> ARC 5353C | 12/30/20 |
| Food and consumer safety—stand operated by a minor, 30.2 <u>Filed</u> ARC 5354C | 12/30/20 |
| Criminal history background check—provisional employment, conditions, 50.9, 51.41, 58.11(3), 67.19 <u>Notice</u> ARC 5335C | 12/16/20 |

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Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]“umbrella”

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IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM[495]

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|---|----------|
| Contribution rates; terms and requirements; death benefits and beneficiaries; open and confidential records, amendments to chs 4, 5, 11 to 14, 17, 19 <u>Notice</u> ARC 5359C | 12/30/20 |
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PUBLIC HEALTH DEPARTMENT[641]“umbrella”

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PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

| | |
|---|----------|
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| Patient information for drug utilization review; contact information for electronically transmitted prescription, 8.21, 21.6(1)“d,” 21.7(3) <u>Filed</u> ARC 5350C | 12/30/20 |
| Temporary designation of controlled substances, 10.39 <u>Notice</u> ARC 5365C | 12/30/20 |
| Schedule I and II controlled substances—perpetual inventory, ordering, distributing, 10.17, 10.18, 11.27 <u>Filed</u> ARC 5349C | 12/30/20 |
| Controlled substances, precursor substances, 10.30(2)“g,” 10.38(3), 10.39, 10.42, 12.1 <u>Filed</u> ARC 5346C | 12/30/20 |
| Temporary designation of controlled substances, 10.39 <u>Filed</u> ARC 5347C | 12/30/20 |
| Nuclear pharmacy practice—adoption by reference of USP General Chapter 825, 16.4(6) <u>Filed</u> ARC 5352C | 12/30/20 |
| Accreditation—wholesale distributors, third-party logistics providers, 17.3(1)“c,” 43.3(1) <u>Filed</u> ARC 5351C | 12/30/20 |
| Controlled substances, veterinarian access to data, definitions, 37.2, 37.7(1)“d,” 37.8, 37.16 <u>Notice</u> ARC 5369C | 12/30/20 |

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

| | |
|--|----------|
| Duplicate wallet card; criminal convictions; licensure by verification, amend chs 4, 5, 20; adopt chs 14, 19 <u>Notice</u> ARC 5367C | 12/30/20 |
| Physician assistants—licensure, criminal convictions, wallet cards, 326.4(7), 326.9, 329.2(11) <u>Notice</u> ARC 5368C | 12/30/20 |

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ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

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Fax: (515)281-8451
Email: Jack.Ewing@legis.iowa.gov

Representative Steven Holt
1430 Third Avenue South
Denison, Iowa 51442

Representative Megan Jones
4470 Highway 71
Sioux Rapids, Iowa 50585

Representative Joe Mitchell
Mount Pleasant, Iowa

Representative Amy Nielsen
168 Lockmoor Circle
North Liberty, Iowa 52317

Representative Rick Olson
3012 East 31st Court
Des Moines, Iowa 50317

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

NOTE: See also the Advisory Notice on page 1450.

ACCOUNTANCY EXAMINING BOARD[193A]

| | | |
|---|---|-----------------------------------|
| Denial of licensure; criminal convictions, 3.1(2), 3.4(3), 4.1(2), 4.2(3), 5.1(1), 5.3, 6.3(3), 6.4(1), 7.2(3), 8.1, 12.1, 13.5(1), 14.3(11) IAB 12/30/20 ARC 5357C | Professional Licensing Bureau Offices 200 E. Grand Ave., Suite 350 Des Moines, Iowa | January 21, 2021 10 to 11 a.m. |
|---|---|-----------------------------------|

ARCHITECTURAL EXAMINING BOARD[193B]

| | | |
|--|--|--|
| Board administration; license renewal; continuing education, amendments to chs 1 to 4, 6, 7 IAB 12/30/20 ARC 5355C | Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa | January 19, 2021 11 a.m. to 12 p.m. |
|--|--|--|

DENTAL BOARD[650]

| | | |
|---|--|----------------------------|
| Licensure; criminal convictions, amend chs 11, 20, 30, 52; adopt ch 50 IAB 12/30/20 ARC 5371C | Via Zoom meeting: us02web.zoom.us/j/82941255805?pwd=c2ZFamUza2paenJBaURRRTF4MktDUT09 Meeting ID: 829 4125 5805 Passcode: 412388 Call line for telephone access: 312.626.6799 Mute telephone or microphone upon entering the meeting | January 19, 2021 2 p.m. |
|---|--|----------------------------|

EDUCATIONAL EXAMINERS BOARD[282]

| | | |
|--|--|-----------------------------|
| Dyslexia specialist endorsement, 13.28(36) IAB 12/2/20 ARC 5293C | Board Room 701 E. Court Ave., Suite A Des Moines, IA 50319 | December 30, 2020 1 p.m. |
|--|--|-----------------------------|

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

| | | |
|--|---|-----------------------------------|
| Temporary permits; licensure by verification, 3.3(4), 5.3 IAB 12/30/20 ARC 5356C | Small Conference Room, Third Floor 200 E. Grand Ave. Des Moines, Iowa | January 21, 2021 10 to 11 a.m. |
|--|---|-----------------------------------|

ENVIRONMENTAL PROTECTION COMMISSION[567]

| | | |
|--|---|--------------------------------|
| Underground storage tanks, amendments to chs 134 to 136 IAB 12/16/20 ARC 5316C | Video/conference call (US) +1 617.675.4444 PIN: 223 266 766 9724# | January 6, 2021 1 to 2 p.m. |
| | Video/conference call (US) +1 617.675.4444 PIN: 223 266 766 9724# | January 7, 2021 1 to 2 p.m. |
| | Video/conference call (US) +1 617.675.4444 PIN: 223 266 766 9724# | January 8, 2021 1 to 2 p.m. |

INTERIOR DESIGN EXAMINING BOARD[193G]

| | | |
|--|--|---------------------------------------|
| Retired status; reinstatement to active status; waivers; license renewal; continuing education, 1.1, 1.3, 1.8, 2.1(4), 2.2 to 2.5, 3.2(3), 3.3(2) IAB 12/30/20 ARC 5360C | Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa | January 19, 2021 12 noon to 1 p.m. |
|--|--|---------------------------------------|

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

| | | |
|--|--|----------------------------|
| Contribution rates; terms and requirements; death benefits and beneficiaries; open and confidential records, amendments to chs 4, 5, 11 to 14, 17, 19 IAB 12/30/20 ARC 5359C | Via conference call Dial: 312.626.6799 Meeting ID number: 899 3701 7925 Pass code: 9614219527 | January 29, 2021 9 a.m. |
|--|--|----------------------------|

MEDICINE BOARD[653]

| | | |
|--|---|---------------------------------|
| Appointment of executive director, 1.3 IAB 12/30/20 ARC 5372C | Via Google Meet meet.google.com/xwz-winy-fyw Via telephone: +1 971.801.0248 PIN: 443 922 280# Mute telephone or microphone upon entering the meeting | January 20, 2021 2 to 3 p.m. |
| Waivers, 3.1, 3.4, 3.17, 8.11, 9.18, 10.6, 11.6, 13.21, 17.4(2), 17.5(13), 17.11, 17.30, 19.8, 20.8(12), 20.20, 20.25, 21.8, 23.1 IAB 12/30/20 ARC 5370C | Via Google Meet meet.google.com/xwz-winy-fyw Via telephone: +1 971.801.0248 PIN: 443 922 290# Mute telephone or microphone upon entering the meeting | January 20, 2021 1 to 2 p.m. |

PROFESSIONAL LICENSURE DIVISION[645]

| | | |
|---|--|-------------------------------------|
| Duplicate wallet card; criminal convictions; licensure by verification, amend chs 4, 5, 20; adopt chs 14, 19 IAB 12/30/20 ARC 5367C | Webex ID : 1468944924 Password: vN6b6Vk* (US) +1 408.418.9388 (toll) Access code: 146 894 492 4 | January 19, 2021 9 to 9:30 a.m. |
| Physician assistants—licensure, criminal convictions, wallet cards, 326.4(7), 326.9, 329.2(11) IAB 12/30/20 ARC 5368C | Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa | January 19, 2021 9:30 to 10 a.m. |

RACING AND GAMING COMMISSION[491]

| | | |
|--|---|---------------------------|
| Wagering; horse racing, 8.1, 10.2(9), 10.4 to 10.6, 14.8(3) IAB 12/16/20 ARC 5315C | Commission Office, Suite 100 1300 Des Moines St. Des Moines, Iowa | January 5, 2021 9 a.m. |
|--|---|---------------------------|

REVENUE DEPARTMENT[701]

Sales and use tax on
services—barbering,
cosmetology, esthetics, 26.9
IAB 12/16/20 **ARC 5317C**

Room 430, Fourth Floor
Hoover State Office Bldg.
Des Moines, Iowa

January 5, 2021
2 to 3 p.m.
(If requested)

TRANSPORTATION DEPARTMENT[761]

Capital match revolving
loan fund; public transit
infrastructure grant program,
923.1(2), 923.3(2), 923.4,
924.2, 924.3, 924.10(4),
924.16(3)
IAB 12/16/20 **ARC 5313C**

Via conference call
Contact Tracy George
Email: tracy.george@iowadot.us

January 7, 2021
2:30 to 3:30 p.m.
(If requested)

Logo signing, 118.2, 118.4,
118.5(1)“a”
IAB 12/16/20 **ARC 5314C**

Via conference call
Contact Tracy George
Email: tracy.george@iowadot.us

January 8, 2021
10 to 11 a.m.
(If requested)

Lighting at primary-secondary
intersections, 136.1, 136.2,
136.6
IAB 12/30/20 **ARC 5341C**

Via conference call
Contact: Tracy George
Email: tracy.george@iowadot.us

January 21, 2021
1 to 2 p.m.
(If requested)

International Registration Plan
(IRP) for fleet vehicles,
amendments to ch 500
IAB 12/30/20 **ARC 5340C**

Via conference call
Contact: Tracy George
Email: tracy.george@iowadot.us

January 21, 2021
10 to 11 a.m.
(If requested)

OWI and implied consent—24/7
sobriety and drug monitoring
program, 620.3(1)“c,” 620.5(8),
620.17
IAB 12/16/20 **ARC 5311C**

Via conference call
Contact Tracy George
Email: tracy.george@iowadot.us

January 7, 2021
9 to 10 a.m.
(If requested)

Applications—training
fellowships, special projects;
public transit bureau; definition
of “urban transit system,” 920.2,
920.3, 920.4(2)
IAB 12/16/20 **ARC 5312C**

Via conference call
Contact Tracy George
Email: tracy.george@iowadot.us

January 7, 2021
1 to 2 p.m.
(If requested)

UTILITIES DIVISION[199]

Regulation of municipal
electric utilities and electric
cooperatives under Iowa Code
chapter 476, ch 27
IAB 11/18/20 **ARC 5281C**

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

February 4, 2021
9 a.m. to 12 noon

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]
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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]
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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]
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WORKFORCE DEVELOPMENT DEPARTMENT[871]
Labor Services Division[875]
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ARC 5357C

ACCOUNTANCY EXAMINING BOARD[193A]**Notice of Intended Action****Proposing rule making related to denial of licensure
and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to amend Chapter 3, “Certification of CPAs,” Chapter 4, “Licensure of LPAs,” Chapter 5, “Licensure Status and Renewal of Certificates and Licenses,” Chapter 6, “Attest and Compilation Services,” Chapter 7, “Certified Public Accounting Firms,” Chapter 8, “Licensed Public Accounting Firms,” Chapter 12, “Fees,” Chapter 13, “Rules of Professional Ethics and Conduct,” and Chapter 14, “Disciplinary Authority and Grounds for Discipline,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 542.4 and 546.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House Files 2389 and 2627.

Purpose and Summary

The proposed amendments update the circumstances under which a license may be denied. They also provide for a predetermination process, prior to an application submittal, as to whether a criminal conviction may prevent licensure.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. It is unknown how many individuals would seek an eligibility determination due to a criminal conviction prior to applying, which would result in collection by the Professional Licensing Bureau of a \$25 fee to recover the associated costs as set forth in 2020 Iowa Acts, House File 2627.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs as individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on January 21, 2021. Comments should be directed to:

Robert Lampe
Iowa Accountancy Examining Board
200 East Grand Avenue, Suite 350
Des Moines, Iowa 50309
Email: robert.lampe@iowa.gov

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

Public Hearing

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

January 21, 2021
10 to 11 a.m.

Professional Licensing Bureau Offices
200 East Grand Avenue, Suite 350
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 3.1(2) as follows:

3.1(2) An application may be denied if the applicant:

a. ~~Has~~ Subject to the limitations and processes set forth at Iowa Code section 272C.15 and corresponding implementing rules located at 193—Chapter 15, has been convicted of a crime described in Iowa Code section 542.5(2);

b. to e. No change.

f. Demonstrates a lack of moral character in a manner which the board reasonably believes will impair the applicant's ability to practice public accountancy in full compliance with the public interest and state policies described in Iowa Code section 542.2. While it is not possible to itemize all actions or behaviors which may demonstrate a lack of moral character, the following nonexclusive list of factors will guide the board in making its determination. However, the board shall not deny an application on the basis of an arrest that was not followed by a conviction based on a finding that because of that arrest the applicant lacks moral character.

(1) A pattern and practice of making false or deceptive representations, or of omitting material facts, while providing the public any of the services described in Iowa Code section 542.3(20);

(2) Fraud or dishonesty while advertising or selling goods or services to the public;

(3) Willful or repeated failure to timely file tax returns or other mandatory submittals due a governmental body;

(4) Fiscally irresponsible behavior in the absence of mitigating circumstances;

g. Is subject to discipline on any ground that would form the basis for discipline against a licensee;
or

h. Has had a practice privilege revoked in this or another jurisdiction.

ITEM 2. Amend subrule 3.4(3) as follows:

3.4(3) A Subject to the limitations and processes set forth at Iowa Code section 272C.15 and corresponding implementing rules located at 193—Chapter 15, a candidate for the examination who has been convicted in a court of competent jurisdiction in this state, or another state, territory, or a district of the United States, or in a foreign jurisdiction of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or other similar offense, or of any crime involving moral character or dishonesty may be denied admittance to the examination by the board on the grounds of the conviction. For purposes of this subrule, "conviction" means a conviction for an indictable offense and includes a guilty plea, deferred judgment from the time of entry of the deferred

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction.

ITEM 3. Amend subrule 4.1(2) as follows:

4.1(2) An application may be denied if the applicant:

a. Has Subject to the limitations and processes set forth at Iowa Code section 272C.15 and corresponding implementing rules located at 193—Chapter 15, has been convicted of a crime;

b. to e. No change.

f. Demonstrates a lack of moral character in a manner that the board reasonably believes will impair the applicant's ability to practice public accountancy in full compliance with the public interest and state policies described in Iowa Code section 542.2. While it is not possible to itemize all actions or behaviors which may demonstrate a lack of moral character, the following nonexclusive list of factors will guide the board in making its determination. However, the board shall not deny an application on the basis of an arrest that was not followed by a conviction based on a finding that because of that arrest the applicant lacks moral character.

(1) A pattern and practice of making false or deceptive representations, or of omitting material facts, while providing any accounting services to the public;

(2) Fraud or dishonesty while advertising or selling goods or services to the public;

(3) Willful or repeated failure to timely file tax returns or other mandatory submittals due a governmental body;

(4) Fiscally irresponsible behavior in the absence of mitigating circumstances; or

g. Is subject to discipline on any ground that would form the basis for discipline against a licensee.

ITEM 4. Amend subrule 4.2(3) as follows:

4.2(3) A Subject to the limitations and processes set forth at Iowa Code section 272C.15 and corresponding implementing rules located at 193—Chapter 15, a candidate for the examination who has been convicted in a court of competent jurisdiction in this state, or another state, territory, or a district of the United States, or in a foreign jurisdiction of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or other similar offense, or of any crime involving moral character or dishonesty may be denied admittance to the examination by the board on the grounds of the conviction. For purposes of this subrule, "conviction" means a conviction for an indictable offense and includes a guilty plea, deferred judgment from the time of entry of the deferred judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction.

ITEM 5. Amend subrule 5.1(1), introductory paragraph, as follows:

5.1(1) Licenses issued by the board pursuant to Iowa Code section 542.6, 542.8, or 542.19, or any other applicable law or rule, may be in active, inactive, or lapsed status, as follows:

ITEM 6. Amend rule 193A—5.3(542) as follows:

193A—5.3(542) License renewal. Licenses issued by the board pursuant to Iowa Code section 542.6 (CPA certificates), 542.8 (LPA licenses), or 542.19 (CPA certificates by substantial equivalency), or any other applicable law or rule, shall be renewed on an annual basis and shall expire on June 30 of each year. Licenses shall be renewed through the online renewal process. An annual renewal fee will be charged.

ITEM 7. Amend paragraph **6.3(3)"a"** as follows:

a. Applicants may apply for attest qualification when initially applying for a certificate as an Iowa CPA under Iowa Code section 542.6 or when applying for reciprocal Iowa certification under Iowa Code section 542.19 or any other applicable law or rule.

ITEM 8. Amend subrule 6.4(1) as follows:

6.4(1) Only a CPA licensed by the board under Iowa Code section 542.6 or 542.19, or any other applicable law or rule; an LPA licensed by the board under Iowa Code section 542.8, or any other applicable law or rule; or a person exercising a practice privilege under Iowa Code section 542.20

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

shall issue a report in standard form upon a compilation of financial information or otherwise provide compilation services in Iowa or for a client with a home office in Iowa.

ITEM 9. Amend paragraph **7.2(3)“c”** as follows:

c. Based on a regulatory or disciplinary action or to the extent applicable, subject to the limitations and processes set forth at Iowa Code section 272C.15 and corresponding implementing rules located at 193—Chapter 15, criminal conviction described in subrules 7.3(14) and 7.3(15) against any of the firm’s licensed or unlicensed owners.

ITEM 10. Amend rule 193A—8.1(542) as follows:

193A—8.1(542) Initial permit to practice.

8.1(1) No change.

8.1(2) The application shall be completed and submitted through the online application process and shall provide sufficient information from which the board can determine that a simple majority of owners hold licenses issued by the board under Iowa Code section 542.8 or certificates issued by the board under Iowa Code section 542.6 or 542.19, or any other applicable law or rule, or are eligible to practice under practice privilege pursuant to Iowa Code section 542.20, or otherwise hold a license or certificate to practice public accounting in another state. At least one owner must be licensed under Iowa Code section 542.8.

8.1(3) The application shall list the name, licensure, and contact information for each licensee or practice privilege practitioner who is responsible for supervising compilation services and who signs or authorizes someone to sign the accountant’s report on financial statements on behalf of the firm. The application shall affirm that any licensee listed meets the competency requirements set forth in SSARS and holds a valid license or certificate issued by the board under Iowa Code section 542.6, 542.8, or 542.19, or any other applicable law or rule, or is eligible to exercise a practice privilege under Iowa Code section 542.20.

8.1(4) No change.

8.1(5) Persons in charge of an office located in Iowa shall be licensed in Iowa under Iowa Code section 542.6, 542.8, or 542.19, or any other applicable law or rule.

8.1(6) The application shall designate an individual who holds a valid license or certificate issued by the board under Iowa Code section 542.6, 542.8, or 542.19, or any other applicable law or rule, or who is eligible to exercise a practice privilege under Iowa Code section 542.20 as the person responsible for ensuring that the firm has complied with all of the requirements for a permit to practice, and shall provide contact and licensure information for such individual.

8.1(7) to 8.1(11) No change.

8.1(12) An initial or renewal application for a firm permit to practice may be denied:

a. Upon any ground that would form a basis for discipline against the firm pursuant to Iowa Code section 542.10 or rule 193A—14.3(17A,272C,542) including, but not limited to, the regulatory and disciplinary actions and, to the extent applicable, subject to the limitations and processes set forth at Iowa Code section 272C.15 and corresponding implementing rules located at 193—Chapter 15, criminal convictions described in subrules 8.1(9) and 8.1(10);

b. Based on the firm’s failure to comply with the requirements of Iowa Code section 542.8 including, but not limited to, a failure to make the designations described in subrules 8.1(3), 8.1(4), and 8.1(6), or a failure to sustain the simple majority of ownership required by Iowa Code section 542.8(12)“a”; or

c. Based on a regulatory or disciplinary action or, to the extent applicable, subject to the limitations and processes set forth at Iowa Code section 272C.15 and corresponding implementing rules located at 193—Chapter 15, criminal conviction described in subrules 8.1(9) and 8.1(10) against any of the firm’s owners (e.g., partners, shareholders, or members).

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

ITEM 11. Amend rule 193A—12.1(542) as follows:

193A—12.1(542) Required fees. The following is a schedule of the fees for examinations, certificates, licenses, permits and renewals adopted by the board:

| | |
|--|--|
| Initial CPA examination application: | |
| Paid directly to CPA examination services | not to exceed \$1500 |
| Reexamination: | |
| Paid directly to CPA examination services | not to exceed \$1500 |
| Original issuance of CPA certificate or LPA license by examination (fee includes wall certificate) | \$100 |
| Original issuance of CPA certificate by reciprocity or substantial equivalency | \$100 |
| CPA wall certificate or LPA license issued by reciprocity or substantial equivalency | \$50 |
| Replacement of lost or destroyed wall CPA certificate or LPA license | \$50 |
| Original issuance of attest qualification | \$100 |
| Annual renewal of CPA certificate or LPA license—active status | \$100 |
| Late renewal of CPA certificate or LPA license within 30-day grace period (July 1 to July 30)—active status | \$25 |
| Annual renewal of CPA certificate or LPA license—inactive status | \$50 |
| Late renewal of CPA certificate or LPA license within 30-day grace period (July 1 to July 30)—inactive status | \$10 |
| Penalty for failure to comply with continuing education requirements | \$50 to \$250 |
| Original issuance of firm permit to practice | \$100 |
| Annual renewal of firm permit to practice | \$100 |
| Reinstatement of lapsed CPA certificate or LPA license | \$100 + renewal fee + \$25 per month of expired registration |
| Reinstatement of lapsed firm permit to practice | \$100 + renewal fee + \$25 per month of expired registration |
| Interstate Transfer Form | \$25 |
| <u>License predetermination fee</u> | <u>\$25</u> |

ITEM 12. Amend subrule 13.5(1) as follows:

13.5(1) Who can perform. Only a CPA licensed under Iowa Code section 542.6 or 542.19, or any other applicable law or rule; an LPA licensed under Iowa Code section 542.8, or any other applicable law or rule; or a CPA exercising a practice privilege under Iowa Code section 542.20 shall issue a report in standard form upon a compilation of financial information or otherwise provide compilation services in Iowa or for a client with a home office in Iowa. (Refer to rule 193A—6.4(542).)

ITEM 13. Amend subrule 14.3(11) as follows:

14.3(11) Conviction of a crime. Conviction, in this state or any other jurisdiction, of any felony, or of any crime described in Iowa Code section 542.5(2). A certified copy of the record final order or judgement of conviction or plea of guilty in this state or in another jurisdiction shall be conclusive evidence of the conviction. “Conviction” shall include any plea of guilty or nolo contendere, including Alford pleas, or finding of guilt whether or not judgment or sentence is deferred, withheld, not entered, or suspended, and whether or not the conviction is on appeal. If such conviction is overturned or reversed by a court of last resort, discipline by the board based solely on the conviction shall be vacated. A conviction qualifies as a felony offense if the offense is designated as a felony in the jurisdiction in which

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

the conviction occurred; or had the offense been committed in this state the offense would be a felony, without regard to its designation elsewhere. Notwithstanding the foregoing, a conviction may be grounds for revocation or suspension only if an unreasonable risk to public safety exists because the offense directly relates to the duties and responsibilities of the profession. An offense directly relates to the profession if either (1) the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of the profession, or (2) the circumstances under which an offense was committed are circumstances customary to the profession.

ARC 5355C**ARCHITECTURAL EXAMINING BOARD[193B]****Notice of Intended Action****Proposing rule making related to board administration and license renewal
and providing an opportunity for public comment**

The Architectural Examining Board hereby proposes to amend Chapter 1, “Description of Organization,” Chapter 2, “Licensure,” Chapter 3, “Continuing Education,” Chapter 4, “Rules of Conduct,” Chapter 6, “Disciplinary Action Against Licensees,” and Chapter 7, “Disciplinary Action—Unlicensed Practice,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 544A.29.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 544A and 2020 Iowa Acts, House File 2627.

Purpose and Summary

These amendments implement changes recommended and required by 2020 Iowa Acts, House File 2627, and the five-year rolling administrative rules review outlined in Iowa Code section 17A.7(2).

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on January 19, 2021. Comments should be directed to:

ARCHITECTURAL EXAMINING BOARD[193B](cont'd)

Lori SchraderBachar
 Architectural Examining Board
 200 East Grand Avenue, Suite 350
 Des Moines, Iowa 50309
 Email: lori.schraderbachar@iowa.gov

Public Hearing

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

January 19, 2021
 11 a.m. to 12 noon

Board Office, Suite 350
 200 East Grand Avenue
 Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend **193B—Chapter 1** as follows:

CHAPTER 1
 DESCRIPTION OF ORGANIZATION

193B—1.1(544A,17A) Duties. ~~The board shall enforce the provisions of Iowa Code chapter 544A and shall maintain a roster of all licensed architects authorized to practice architecture in the state.~~

1.1(1) The purpose of the architectural examining board is to administer and enforce the provisions of Iowa Code chapter 544A with regard to the practice of architecture in the state of Iowa including the examining of candidates; issuing licenses to practice architecture; assuring continuing competency through continued education; investigating violations and infractions of the architecture law; disciplining licensees; and imposing civil penalties against nonlicensees. To this end, the board has promulgated these rules to clarify the board's intent and procedures.

1.1(2) The primary mission of the board is to protect the public interest. All board rules shall be construed as fostering the guiding policies and principles described in Iowa Code section 544A.5. The board and its licensees shall strive at all times to protect the public interest by promoting the highest standards of architecture.

1.1(3) The board shall maintain a roster of all architects authorized to practice architecture in the state.

1.1(4) 1.1(4) *President Chairperson.* The ~~president~~ chairperson shall preside at all meetings, shall appoint all committees, ~~shall sign all certificates,~~ and shall otherwise perform all duties pertaining to the office of the ~~president~~ chairperson.

ARCHITECTURAL EXAMINING BOARD[193B](cont'd)

~~1.1(2)~~ **1.1(5)** *Vice president chairperson.* The vice ~~president~~ chairperson shall, in the absence or incapacity of the ~~president~~ chairperson, exercise the duties and possess the powers of the ~~president~~ chairperson. ~~The vice president shall sign all certificates.~~

~~1.1(3)~~ *Secretary.* The secretary shall sign all certificates.

~~1.1(4)~~ **1.1(6)** *Board administrator.* The professional licensing and regulation bureau may employ a board administrator, who will maintain all necessary records of the board and perform all duties in connection with the operation of the board office. The board administrator is the lawful custodian of board records. The board administrator shall determine when the legal requirements for licensure have been satisfied with regard to issuance of certificates, licenses or registrations, and the board administrator shall submit to the board any questionable application. The bureau chief or designee shall sign vouchers for payment of board obligations.

193B—1.2(544A,17A) No change.

193B—1.3(544A,17A) Meetings. Calls for meetings shall be issued in accordance with Iowa Code section 21.4. The annual meeting of the board shall be the first meeting scheduled after April 30. At this meeting, the ~~president, vice president chairperson and secretary~~ vice chairperson shall be elected to serve until their successors are elected. The newly elected officers shall assume the duties of their respective offices at the conclusion of the meeting at which they are elected. Officers shall serve no more than three consecutive one-year terms in each office to which they are elected. Special meetings may be called by the ~~president chairperson~~ or board administrator, who shall set the time and place of the meeting.

193B—1.4(544A,17A) Certificates. Certificates issued to successful applicants shall contain the licensee's name, and state license number ~~and the signatures of the board president, vice president and secretary.~~ All licenses are renewable biennially on July 1, with licensees whose last names begin with the letters A-K renewing in even-numbered years and licensees whose last names begin with the letters L-Z renewing in odd-numbered years as provided in rule 193B—2.5(17A,272C,544A).

The board shall maintain an electronic roster of those holders of certificates of licensure who have failed to renew. The certificate of licensure may be reinstated in ~~accordance~~ accordance with rule ~~193B—2.4(544A,17A)~~ 193B—2.6(544A,17A).

~~**193B—1.5(544A,17A) Definitions.** Rescinded IAB 10/3/01, effective 11/7/01.~~

These rules are intended to implement Iowa Code sections 544A.5, 544A.8 to 544A.10, and 272C.4.

ITEM 2. Amend rule **193B—2.1(544A,17A)**, definitions of “Architectural intern,” “NCARB Architect Registration Examination (ARE) Guidelines,” “NCARB Architectural Experience Program Guidelines,” and “NCARB Certification Guidelines,” as follows:

“*Architectural intern*” means an individual who holds a professional degree from a NAAB-accredited program, has completed or is currently enrolled in the NCARB Architectural Experience Program (AXP), ~~formerly known as the Intern Development Program (IDP)~~, and intends to actively pursue licensure by completing the Architect Registration Examination.

“*NCARB Architect Registration Examination (ARE) Guidelines*” means the most current edition of a document by the same title published by the National Council of Architectural Registration Boards. The document outlines the requirements for examination and is available through the National Council of Architectural Registration Boards, 1801 K Street NW, Suite 1100, Washington, D.C. 20006 ~~1401 H Street NW, Suite 500, Washington, DC 20005; NCARB’s Web site website, www.ncarb.org; or the architectural examining board.~~

“*NCARB Architectural Experience Program Guidelines*,” ~~formerly known as the IDP Guidelines~~, means the most current edition of a document by the same title published by the National Council of Architectural Registration Boards. The document outlines the requirements for training and is available through the National Council of Architectural Registration Boards, 1801 K Street NW, Suite 1100,

ARCHITECTURAL EXAMINING BOARD[193B](cont'd)

~~Washington, D.C. 20006 1401 K Street NW, Suite 1100, Washington, D.C. 20006~~ 1401 H Street NW, Suite 500, Washington, DC 20005; NCARB's Web site website, www.ncarb.org; or the architectural examining board.

"NCARB Certification Guidelines" means the most current edition of a document by the same title published by the National Council of Architectural Registration Boards. The document outlines the requirements for licensure as an architect and is available through the National Council of Architectural Registration Boards, ~~1801 K Street NW, Suite 1100, Washington, D.C. 20006~~ 1401 H Street NW, Suite 500, Washington, DC 20005; NCARB's Web site website, www.ncarb.org; or the architectural examining board.

ITEM 3. Rescind subrule **2.3(4)**.

ITEM 4. Renumber subrules **2.3(5)** and **2.3(6)** as **2.3(4)** and **2.3(5)**.

ITEM 5. Amend subrule 2.5(1) as follows:

2.5(1) Active status. Certificates of licensure expire biennially on June 30. In order to maintain authorization to practice in Iowa, a licensee is required to renew the certificate of licensure prior to ~~the expiration date June 1 of the year of expiration.~~ However, the board will accept an otherwise sufficient renewal application that is untimely if the board receives the application and late fee within 30 days prior to the date of expiration. A licensee who fails to renew by the expiration date is not authorized to practice architecture in Iowa until the certificate is reinstated as provided in rule 193B—2.6(544A,17A).

a. A licensee whose last name begins with the letter A through K shall renew in even-numbered years, and a licensee whose last name begins with the letter L through Z shall renew in odd-numbered years. However, a license issued on or after May 1 but before June 30 will not expire until June 30 of the next renewal. For example, a license issued on May 17, 2020, would not expire until June 30, 2022.

b. No change.

c. Upon the board's receipt of a timely and sufficient renewal application as provided in 193—subrule 7.40(3), the board's administrator shall issue a new certificate of licensure reflecting the next expiration date, unless grounds exist for denial of the application. ~~However, the board will accept an otherwise sufficient renewal application that is untimely if the board receives the application and late fee within 30 days of the date of expiration.~~

d. If grounds exist to deny a timely and sufficient application to renew, the board shall send ~~written~~ notification to the applicant ~~by restricted certified mail, return receipt requested.~~ Grounds may exist to deny an application to renew if, for instance, the licensee failed to satisfy the continuing education as required as a condition for licensure. If the basis for denial is pending disciplinary action or disciplinary investigation which is reasonably expected to culminate in disciplinary action, the board shall proceed as provided in 193—Chapter 7. If the basis for denial is not related to a pending or imminent disciplinary action, the applicant may contest the board's decision as provided in 193—subrule 7.40(1).

e. When a licensee appears to be in violation of mandatory continuing education requirements, the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.40(546,272C), and after or in lieu of giving the licensee an opportunity to come into compliance under 193B—subrule 3.3(3), offer a licensee the opportunity to sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between \$50 and \$250, depending on the severity of the violation; establish deadlines for compliance; and require that the licensee complete hours equal to double the deficiency in addition to the required hours; and may impose additional educational requirements on the licensee. Any additional hours completed in compliance with the consent order cannot again be claimed at the next renewal. The board will address subsequent offenses on a case-by-case basis. A licensee is free to accept or reject the offer. If the offer of settlement is accepted, the licensee will be issued a renewed certificate of licensure and will be subject to disciplinary action if the terms of the consent order are not complied with. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the applicant pursuant to 193—subrule 7.40(1).

f. and g. No change.

ARCHITECTURAL EXAMINING BOARD[193B](cont'd)

ITEM 6. Amend paragraph **2.5(2)“b”** as follows:

b. Renewal. A person licensed as inactive may renew the person's certificate of licensure on the biennial schedule described in ~~193B—2.5(17A,272C,544A)~~ this rule. This person shall be exempt from the continuing education requirements and will be charged a reduced renewal fee as provided in ~~193B—2.9(544A,17A)~~ 193B—2.10(544A,17A). An inactive certificate of licensure shall lapse if not timely renewed. However, the board will accept an otherwise sufficient renewal application that is untimely if the board receives the application and late fee within 30 days of the date of prior to expiration.

ITEM 7. Amend subrule 2.6(4) as follows:

2.6(4) Submit documented evidence of completion of 24 continuing education hours, which should have been reported on the June 30 renewal date on which the applicant failed to renew, and 12 continuing education hours for each year or portion of a year of expired licensure up to a maximum of 48 continuing education hours. All continuing education hours must be completed in health, safety, and welfare subjects acquired in structured educational activities and be in compliance with requirements in 193B—Chapter 3. The hours reported shall not have been earned more than four years prior to the date of the application to reinstate to active status. The continuing education hours used for reinstatement may not be used again at the next renewal. ~~Out-of-state residents may submit a statement from their resident state's licensing board as documented evidence of compliance with their resident state's mandatory continuing education requirements during the period in which the individual was unlicensed. The statement shall bear the seal of the licensing board. Out-of-state residents whose resident state has no mandatory continuing education shall comply with the documented evidence requirements outlined in this subrule.~~

ITEM 8. Amend rule 193B—2.7(544A) as follows:

193B—2.7(544A) Reinstatement from inactive status or retired status to active status.

2.7(1) An individual may reinstate an inactive license to an active license as follows:

a. No change.

b. Submit documented evidence of completion of 24 continuing education hours in compliance with requirements in 193B—Chapter 3. All continuing education hours must be completed in health, safety, and welfare subjects acquired in structured educational activities. The hours used to reinstate to active status cannot again be used to renew.

(1) At the first biennial renewal date of July 1 that is less than 12 months from the date of the filing of the application to restore the certificate of licensure to active status, the person shall not be required to report continuing education hours.

(2) At the first biennial renewal date of July 1 that is ~~more than~~ 12 months or more, but less than 24 months, from the date of the filing of the application to restore the certificate of licensure to active status, the person shall report 12 hours of previously unreported continuing education hours.

c. No change.

2.7(2) An individual may reinstate a retired license to an active license as follows:

a. No change.

b. Submit documented evidence of completion of 24 continuing education hours in compliance with requirements in 193B—Chapter 3. All continuing education hours must be completed in health, safety, and welfare subjects acquired in structured educational activities. The hours used to reinstate to active status cannot again be used to renew.

(1) At the first biennial renewal date of July 1 that is less than 12 months from the date of the filing of the application to restore the certificate of licensure to active status, the person shall not be required to report continuing education hours.

(2) At the first biennial renewal date of July 1 that is ~~more than~~ 12 months or more, but less than 24 months, from the date of the filing of the application to restore the certificate of licensure to active status, the person shall report 12 hours of previously unreported continuing education hours.

c. No change.

2.7(3) No change.

ARCHITECTURAL EXAMINING BOARD[193B](cont'd)

ITEM 9. Renumber rule **193B—2.9(544A,17A)** as **193B—2.10(544A,17A)**.

ITEM 10. Adopt the following new rule 193B—2.9(544A,272C):

193B—2.9(544A,272C) Responsibility for accuracy of applications. The architect is responsible for verifying the accuracy of the information submitted on an application regardless of how the application is submitted or by whom it is submitted. For instance, if the office manager of an architect's firm submits an application for renewal on behalf of the architect and that information is incorrect, the architect will be held responsible for the information and may be subject to disciplinary action.

ITEM 11. Amend renumbered rule 193B—2.10(544A,17A) as follows:

193B—2.10(544A,17A) Fee schedule. Under the authority provided in Iowa Code chapter 544A, the following fees are hereby adopted:

Examination fees:

Fees for examination subjects shall be paid directly to the testing service selected by NCARB

| | |
|---|--|
| Initial license fee | \$ 50 |
| (plus \$5 per month until renewal) | |
| Reciprocal application and license fee | \$200 |
| Biennial renewal fee | \$200 |
| Biennial renewal fee (inactive) | \$100 |
| Retired status | None |
| Reinstatement of lapsed individual license | \$100 + renewal fee + \$25 per month or partial month of expired license |
| Reinstatement of inactive individual license | \$100 |
| Reinstatement of retired individual license | \$200 |
| Duplicate wall certificate fee | \$ 50 |
| Late renewal fee | \$ 25 |
| (for renewals postmarked on or after July <u>June</u> 1 and before July <u>June</u> 30) | |
| <u>License predetermination fee</u> | <u>\$ 25</u> |

All fees are nonrefundable.

ITEM 12. Amend rule 193B—3.3(544A,272C) as follows:

193B—3.3(544A,272C) Basic requirements.

3.3(1) and 3.3(2) No change.

3.3(3) An architect shall complete and submit forms as required by the board certifying that the architect has completed the required CEHs. Forms may be audited by the board for verification of compliance with these requirements. Documentation of reported CEHs shall be maintained by the architect for two years after the period for which the form was submitted. Any discrepancy between the number of CEHs reported and the number of CEHs actually supported by documentation may result in a disciplinary review. If, after the disciplinary review, the board disallows any CEHs, or the licensee has failed to complete the required CEHs, the architect shall have 60 days from notification of the board notice of such disallowance to either provide further evidence of having completed the CEHs disallowed or remedy the disallowance by completing the required number of CEHs (provided that such CEHs shall not again be used for the next renewal). An extension of time may be granted on an individual basis and must be requested by the licensee within 30 days of notification by the board. If the licensee fails to comply with the requirements of this subrule, the licensee may be subject to disciplinary action. If the

ARCHITECTURAL EXAMINING BOARD[193B](cont'd)

board finds, after proper notice and hearing, that the architect willfully disregarded these requirements or falsified documentation of required CEHs, the architect may be subject to disciplinary action.

3.3(4) An architect who holds licensure in Iowa for less than 12 months from the date of initial licensure or who is reinstating to active status shall not be required to report CEHs at the first license renewal. An architect who holds licensure in Iowa for ~~more than~~ 12 months or more, but less than 23 months from the date of initial licensure or who is reinstating to active status, shall be required to report 12 CEHs earned in the preceding 12 months at the first license renewal.

ITEM 13. Amend subrule 4.1(6) as follows:

4.1(6) Professional conduct.

a. Each office engaged in the practice of architecture shall have an architect resident regularly employed in that office having responsible charge of such work or, in the situation of work performed remotely, immediately available to furnish assistance or direction throughout the performance of the work.

b. to d. No change.

e. Architects shall adhere to the appropriate standards of conduct as outlined in the NCARB Model Rules of Conduct, dated July 2018, incorporated herein by reference.

ITEM 14. Amend rule 193B—6.2(544A,272C) as follows:

193B—6.2(544A,272C) Investigation of complaints. The board shall, upon receipt of a complaint in writing, or may, upon its own motion, pursuant to other evidence received by the board, review and investigate alleged acts or omissions which the board reasonably believes constitute cause under applicable law or administrative rules. In order to determine if probable cause exists for a hearing on a complaint, the investigators designated by the ~~president~~ chairperson shall cause an investigation to be made into the allegations of the complaint. If the board determines that the complaint does not present facts which constitute a basis for disciplinary action, the board shall take no further action.

ITEM 15. Amend rule 193B—6.3(544A,272C) as follows:

193B—6.3(544A,272C) Peer investigative committee. A peer investigative committee may be appointed by the ~~president~~ chairperson to investigate a complaint. The committee members will consist of one or more architects, serve at the discretion of the ~~president~~ chairperson, and shall have been licensed to practice in Iowa for at least five years. The committee will review and determine the facts of the complaint and make a report to the board in a timely manner.

ITEM 16. Amend rule 193B—7.2(544A,272C) as follows:

193B—7.2(544A,272C) Investigation of complaints. The board shall, upon receipt of a complaint in writing, or may, upon its own motion, pursuant to other evidence received by the board, review and investigate alleged acts which the board reasonably believes constitute cause under applicable law or administrative rules. In order to determine if probable cause exists for a hearing on a complaint, the investigators designated by the ~~president~~ chairperson shall cause an investigation to be made into the allegations of the complaint. If the board determines that the complaint does not present facts which constitute a basis for disciplinary action, the board shall take no further action.

ARC 5371C

DENTAL BOARD[650]

Notice of Intended Action

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

The Dental Board hereby proposes to amend Chapter 11, “Licensure to Practice Dentistry or Dental Hygiene,” Chapter 20, “Dental Assistants,” and Chapter 30, “Discipline”; to adopt new Chapter 50, “Use

DENTAL BOARD[650](cont'd)

of Criminal Convictions in Eligibility Determinations and Initial Licensing Decisions”; and to amend Chapter 52, “Military Service and Veteran Reciprocity,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.76 and 153.33 and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement 2020 Iowa Acts, House File 2627, and provide:

- Addition of new subrules to set forth the availability and procedures for license by verification for dentists, dental hygienists, and dental assistants,
- Updated grounds for discipline for criminal convictions as set forth in House File 2627,
- Removal of the term “spouse” from Chapter 52 as a result of the striking of Iowa Code section 272C.4(13) in House File 2627, and
- Addition of a new Chapter 50 regarding the use of criminal convictions in eligibility determinations and initial licensure decisions.

Fiscal Impact

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

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs as individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

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 January 19, 2021. Comments should be directed to:

Tiffany Allison
Iowa Dental Board
400 S.W. Eighth Street, Suite D
Des Moines, Iowa 50309
Phone: 515.281.3248
Fax: 515.281.7969
Email: Tiffany.Allison@iowa.gov

Public Hearing

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

DENTAL BOARD[650](cont'd)

January 19, 2021
2 p.m.

Via Zoom Meeting
us02web.zoom.us/j/82941255805?pwd=-c2ZFamUza2paenJBaURRRTF4MktDUT09
 Meeting ID: 829 4125 5805
 Passcode: 412388
 Call line for telephone access: 312.626.6799

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 actions are proposed:

ITEM 1. Adopt the following **new** subrule 11.3(6):

11.3(6) A dentist who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by credentials may apply for licensure by verification, if eligible, in accordance with rule 650—11.12(272C).

ITEM 2. Adopt the following **new** subrule 11.4(5):

11.4(5) A dentist who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure in this rule may apply for licensure by verification, if eligible, in accordance with rule 650—11.12(272C).

ITEM 3. Adopt the following **new** subrule 11.6(7):

11.6(7) A dental hygienist who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by credentials may apply for licensure by verification, if eligible, in accordance with rule 650—11.12(272C).

ITEM 4. Amend rule 650—11.9(147,153) as follows:

650—11.9(147,153) Grounds for denial of application. The board may deny an application for license or permit for any of the following reasons:

1. Failure to meet the requirements for license or permit as specified in these rules.
2. Failure to provide accurate and truthful information, or the omission of material information.
3. Pursuant to Iowa Code section 147.4, upon any of the grounds for which licensure may be revoked or suspended.

4. Pursuant to 650—Chapter 50, for having a disqualifying offense.

This rule is intended to implement Iowa Code section 147.4.

ITEM 5. Adopt the following **new** subrule 11.10(6):

11.10(6) Disqualifying offenses. Any denial of licensure based on a disqualifying offense is governed by 650—Chapter 50 and not this rule.

DENTAL BOARD[650](cont'd)

ITEM 6. Adopt the following **new** rule 650—11.12(272C):

650—11.12(272C) Licensure by verification. Licensure by verification is available in accordance with the following:

11.12(1) Eligibility. A dentist or dental hygienist may seek licensure by verification if the person is currently licensed as a dentist or dental hygienist in at least one other jurisdiction that has a substantially similar scope of practice substantially similar to that of Iowa, the person has been licensed for a minimum of one year in the other jurisdiction and either:

- a. The person relocates and establishes residency in the state of Iowa; or
- b. The person is married to an active duty member of the military forces of the United States and is accompanying the member on an official permanent change of station to a military installation located in the state of Iowa.

11.12(2) Board application. The applicant must submit the following:

- a. A completed application for licensure.
- b. Payment of the application fee.
- c. A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.
- d. A verification form, completed by the licensing authority in the jurisdiction that issued the applicant's license, verifying that the applicant's license in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form must be sent directly from the licensing authority to the board.
- e. Proof of residency in the state of Iowa or proof of military member's official permanent change of station. Proof of residency includes:
 - (1) A residential mortgage, lease, or rental agreement;
 - (2) A utility bill;
 - (3) A bank statement;
 - (4) A paycheck or pay stub;
 - (5) A property tax statement;
 - (6) A federal or state government document; or
 - (7) Any other board-approved document that reliably confirms Iowa residency.
- f. Evidence of successful completion of a board-approved jurisprudence examination with a grade of at least 75 percent.
- g. Copies of complete criminal record, if the applicant has a criminal history.
- h. A copy of the relevant disciplinary documents, if another jurisdiction has taken disciplinary action against the applicant.
- i. A written statement from the applicant detailing the scope of practice in the other state.
- j. Copies of relevant laws setting forth the scope of practice in the other state.

11.12(3) Applicants with prior discipline. If another jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will neither issue a license nor deny the application for licensure until the matter is resolved. A person who has had a license revoked, or who has voluntarily surrendered a license, in another jurisdiction is ineligible for licensure by verification.

11.12(4) Applicants with pending complaints or investigations. If an applicant is currently the subject of a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will neither issue a license nor deny the application for licensure until the complaint, allegation, or investigation is resolved.

11.12(5) Temporary licenses. Applicants who satisfy all requirements for a license under this rule except for passing the jurisprudence examination may be issued a temporary license in accordance with the following:

- a. A temporary license is valid for a period of three months.

DENTAL BOARD[650](cont'd)

b. A temporary license may be renewed once for an additional period of three months if the applicant has not failed the jurisprudence examination.

c. A temporary licensee shall display the board-issued license renewal card that indicates the license is a temporary license, which will satisfy the requirements in rule 650—10.2(147,153).

d. The temporary licensee must submit proof of passing the jurisprudence examination before the temporary license expires. When the temporary licensee submits proof of passing the jurisprudence examination, the temporary license will convert to a standard license and be assigned an expiration date consistent with standard licenses.

e. If the temporary licensee does not submit proof of passing the jurisprudence examination prior to the expiration of the temporary license, the temporary licensee must cease practice until a standard license is issued.

ITEM 7. Adopt the following **new** subrule 20.6(4):

20.6(4) A dental assistant who is licensed or registered in another jurisdiction but who is unable to satisfy the requirements for registration in this rule may apply for registration by verification, if eligible, in accordance with rule 650—20.17(272C).

ITEM 8. Adopt the following **new** rule 650—20.17(272C):

650—20.17(272C) Registration by verification. Registration by verification is available in accordance with the following:

20.17(1) Eligibility. A dental assistant may seek registration by verification if the person is currently licensed or registered as a dental assistant in at least one other jurisdiction that has a substantially similar scope of practice substantially similar to that of Iowa, the person has been licensed or registered for a minimum of one year in the other jurisdiction, and either:

- a. The person relocates and establishes residency in the state of Iowa; or
- b. The person is married to an active duty member of the military forces of the United States and is accompanying the member on an official permanent change of station to a military installation located in the state of Iowa.

20.17(2) Board application. The applicant must submit the following:

- a. A completed application for registration.
- b. Payment of the application fee.
- c. A verification form, completed by the licensing authority in the jurisdiction that issued the applicant's license or registration, verifying that the applicant's license or registration in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form must be sent directly from the licensing authority to the board.

d. Proof of residency in the state of Iowa or proof of military member's official permanent change of station. Proof of residency includes:

- (1) A residential mortgage, lease, or rental agreement;
- (2) A utility bill;
- (3) A bank statement;
- (4) A paycheck or pay stub;
- (5) A property tax statement;
- (6) A federal or state government document; or
- (7) Any other board-approved document that reliably confirms Iowa residency.

e. Evidence of successful completion of a board-approved jurisprudence examination with a grade of at least 75 percent.

f. Copies of complete criminal record, if the applicant has a criminal history.

g. A copy of the relevant disciplinary documents, if another jurisdiction has taken disciplinary action against the applicant.

h. A written statement from the applicant detailing the scope of practice in the other state.

i. Copies of relevant laws setting forth the scope of practice in the other state.

DENTAL BOARD[650](cont'd)

20.17(3) Applicants with prior discipline. If another jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will neither issue a registration nor deny the application for registration until the matter is resolved. A person who has had a license or registration revoked, or who has voluntarily surrendered a license or registration, in another jurisdiction is ineligible for registration by verification.

20.17(4) Applicants with pending complaints or investigations. If an applicant is currently the subject of a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will neither issue a registration nor deny the application for registration until the complaint, allegation, or investigation is resolved.

20.17(5) Temporary registrations. Applicants who satisfy all requirements for a registration under this rule except for passing the jurisprudence examination may be issued a temporary registration in accordance with the following:

- a. A temporary registration is valid for a period of three months.
- b. A temporary registration may be renewed once for an additional period of three months if the applicant has not failed the jurisprudence examination.
- c. A temporary registrant shall display the board-issued registration renewal card that indicates the registration is a temporary registration, which will satisfy the requirements in rule 650—10.2(147,153).
- d. The temporary registrant must submit proof of passing the jurisprudence examination before the temporary registration expires. When the temporary registrant submits proof of passing the jurisprudence examination, the temporary registration will convert to a standard registration and be assigned an expiration date consistent with standard registrations.
- e. If the temporary registrant does not submit proof of passing the jurisprudence examination prior to the expiration of the temporary registration, the temporary registrant must cease practice until a standard registration is issued.

ITEM 9. Rescind paragraph **30.4(2)“d”** and adopt the following **new** paragraph in lieu thereof:

d. Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession;

ITEM 10. Adopt the following **new** 650—Chapter 50:

CHAPTER 50

USE OF CRIMINAL CONVICTIONS IN ELIGIBILITY DETERMINATIONS AND INITIAL LICENSING DECISIONS

650—50.1(272C) Definitions.

“*Complete criminal record*” includes the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

“*Conviction*” means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. “Conviction” includes Alford pleas and pleas of nolo contendere.

“*Disqualifying offense*” means a conviction directly related to the duties and responsibilities of the profession. A conviction is directly related to the duties and responsibilities of the profession if either (1) the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession, or (2) the circumstances under which an offense was committed are circumstances customary to a licensed profession.

DENTAL BOARD[650](cont'd)

“*License*” means any license, registration, or permit issued by the board.

650—50.2(272C) License application. Unless an applicant for licensure petitions the board for an eligibility determination pursuant to rule 650—50.3(272C), the applicant’s convictions will be reviewed when the board receives a completed license application.

50.2(1) An applicant must disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

50.2(2) An applicant with one or more convictions shall submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the license application to be considered complete.

50.2(3) An applicant must submit as part of the license application all evidence of rehabilitation that the applicant wishes to be considered by the board.

50.2(4) The board may deny a license if the applicant has a disqualifying offense unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15.

50.2(5) An applicant with one or more disqualifying offenses who has been found rehabilitated must still satisfy all other requirements for licensure.

50.2(6) Any application fees paid will not be refunded if the license is denied.

650—50.3(272C) Eligibility determination.

50.3(1) An individual who has not yet submitted a completed license application may petition the board for a determination of whether one or more of the individual’s convictions are disqualifying offenses that would render the individual ineligible for licensure. An individual with a conviction is not required to petition the board for an eligibility determination prior to applying for licensure.

50.3(2) To petition the board for an eligibility determination of whether one or more of the petitioner’s convictions are disqualifying offenses, a petitioner shall submit all of the following:

- a. A completed petition for eligibility determination form;
- b. The complete criminal record for each of the petitioner’s convictions;
- c. A personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession and why the board should find the petitioner rehabilitated;
- d. All evidence of rehabilitation that the petitioner wishes to be considered by the board; and
- e. Payment of a nonrefundable fee of \$25.

650—50.4(272C) Appeal. A petitioner deemed ineligible or an applicant denied a license due to a disqualifying offense may appeal the decision in the manner and timeframe set forth in the board’s written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The board’s rules governing contested case proceedings will apply unless otherwise specified in this rule. If the petitioner or applicant fails to timely appeal, the board’s written decision will become a final order.

50.4(1) An administrative law judge will serve as the presiding officer of the nondisciplinary contested case proceeding, unless the board elects to serve as the presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered shall be a proposed decision.

50.4(2) The contested case hearing shall be closed to the public, and the board’s review of a proposed decision shall occur in closed session.

50.4(3) The office of the attorney general shall represent the board’s initial ineligibility determination or license denial and shall have the burden of proof to establish that the petitioner’s or applicant’s convictions include at least one disqualifying offense. Upon satisfaction of this burden by a preponderance of the evidence by the office of the attorney general, the burden of proof shall shift to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

50.4(4) A petitioner or applicant must appeal an ineligibility determination or license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested

DENTAL BOARD[650](cont'd)

case proceeding. Judicial review of the final order following a contested case proceeding shall be in accordance with Iowa Code chapter 17A.

650—50.5(272C) Future petitions or applications. If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant may not submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

These rules are intended to implement Iowa Code sections 272C.1(8) and 272C.15.

ITEM 11. Amend rule 650—52.1(35) as follows:

650—52.1(35 272C) Definitions.

“*License*” or “*licensure*” means any license, registration, certificate or permit that may be granted by the board.

“*Military service*” means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. Section 101(c); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101.

“*Military service applicant*” means an individual who is requesting credit toward licensure or registration for military education, training, or service obtained or completed in military service.

“*Reciprocity*” means the process by which an individual licensed in another jurisdiction becomes licensed in Iowa and may also be referred to in other board rules as “licensure by credentials.”

~~“*Spouse*” means a spouse of an active duty member of the military forces of the United States.~~

“*Veteran*” means an individual who meets the definition of “veteran” in Iowa Code section 35.1(2).

ITEM 12. Amend rule 650—52.2(35), parenthetical implementation statute, as follows:

650—52.2(35 272C) Military education, training, and service credit.

ITEM 13. Amend rule 650—52.3(35) as follows:

650—52.3(35 272C) 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

DENTAL BOARD[650](cont'd)

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.

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. to d. No change.

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

These rules are intended to implement Iowa Code ~~chapter 35 and 2019 Iowa Acts, House File 288~~ sections 272C.4(11) and 272C.4(12).

ARC 5356C

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Notice of Intended Action

Proposing rule making related to application and renewal process and providing an opportunity for public comment

The Engineering and Land Surveying Examining Board hereby proposes to amend Chapter 3, "Application and Renewal Process," and Chapter 5, "Land Surveying Licensure," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 542.10 and 542B.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House Files 2389 and 2627.

Purpose and Summary

This proposed rule making creates a provision where an out-of-state-licensed land surveyor may be granted a temporary Iowa land surveyor's license. Item 2 contains a cross-reference to rule 193—14.4(272C), regarding licensure by verification, which will be proposed in a future rule making. The proposed amendments were approved by the Board on November 12, 2020.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. It is unknown how many individuals would seek an eligibility determination due to a criminal conviction prior to applying,

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

which determination would result in the collection by the Professional Licensing Bureau of a \$25 fee to recover the associated costs as set forth in 2020 Iowa Acts, House File 2627.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure under the proposed amendments.

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on January 21, 2021. Comments should be directed to:

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

Public Hearing

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

January 21, 2021
10 to 11 a.m.

Small Conference Room, Third Floor
200 East Grand Avenue
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 3.3(4) as follows:

3.3(4) Temporary permits. The board does not issue temporary permits except as provided for in rule 193C—5.3(542B,272C). Based upon review by a board member, temporary permits were previously issued to applicants whose applications met all requirements and who were expected to qualify for approval by the full board at the next regularly scheduled board meeting. Since applications that meet these criteria are now routinely processed as they are completed and reviewed, temporary permits are no longer necessary.

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

ITEM 2. Adopt the following **new** rule 193C—5.3(542B,272C):

193C—5.3(542B,272C) Licensure by verification. In addition to the requirements of rule 193—14.4(2727C), professional land surveying candidates applying for an Iowa license by verification must pass the Iowa State Specific Land Surveying examination prior to being issued a license. The board will issue a temporary license that is valid for a period of three months to professional land surveying candidates who have not yet passed the Iowa State Specific Land Surveying examination prior to their application. The professional land surveying candidate may request one renewal of the temporary license for an additional period of three months.

This rule is intended to implement Iowa Code section 272C.12.

ARC 5360C

INTERIOR DESIGN EXAMINING BOARD[193G]

Notice of Intended Action

**Proposing rule making related to retirement, waivers, and licensure
and providing an opportunity for public comment**

The Interior Design Examining Board hereby proposes to amend Chapter 1, “Description of Organization,” Chapter 2, “Registration,” and Chapter 3, “Continuing Education,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 544C.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 544C and 2020 Iowa Acts, House File 2627.

Purpose and Summary

These proposed amendments implement changes recommended and required by 2020 Iowa Acts, House File 2627, and the five-year rolling administrative rules review outlined in Iowa Code section 17A.7(2).

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on January 19, 2021. Comments should be directed to:

INTERIOR DESIGN EXAMINING BOARD[193G](cont'd)

Lori SchraderBachar
 Interior Design Examining Board
 200 East Grand Avenue, Suite 350
 Des Moines, Iowa 50309
 Email: lori.schraderbachar@iowa.gov

Public Hearing

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

January 19, 2021
 12 noon to 1 p.m.

Board Office, Suite 350
 200 East Grand Avenue
 Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Adopt the following new definition of "Retired" in rule **193G—1.1(544C,17A)**:
 "Retired" means that a registered interior designer is not engaged in interior design or earning monetary compensation by providing professional services in any licensing jurisdiction of the United States or a foreign country.

ITEM 2. Amend rule 193G—1.3(544C,17A), introductory paragraph, as follows:

193G—1.3(544C,17A) Organization and duties. The board shall consist of seven members: five members who are interior designers registered under Iowa Code chapter 544C and two members who are not interior designers and who represent the general public. The board shall elect annually from its members a chairperson and a vice-chairperson. A quorum of the board shall be four members, and all final motions and actions must receive a quorum majority vote. The board shall enforce the provisions of Iowa Code chapter 544C and shall maintain a roster of all registered interior designers in the state.

ITEM 3. Amend rule 193G—1.8(544C,17A) as follows:

193G—1.8(544C,17A) Waivers ~~and variances~~.

1.8(1) Persons who wish to seek waivers ~~or variances~~ from board rules should consult the uniform rules for the bureau at 193—Chapter 5.

1.8(2) In addition to the provisions of 193—Chapter 5, the following shall apply for interim rulings:
 a. The board chairperson, or the vice-chairperson if the chairperson is not available, may rule on a petition for waiver ~~or variance~~ when it would not be timely to wait for the next regularly scheduled board meeting for a ruling from the board.

b. to d. No change.

e. Subrule 1.8(2) on interim rulings does not apply if the waiver ~~or variance~~ was filed in a contested case.

INTERIOR DESIGN EXAMINING BOARD[193G](cont'd)

ITEM 4. Adopt the following new subrule 2.1(4):

2.1(4) Retired status. A person who held an active Iowa registration and who does not reasonably expect to return to the workforce in any capacity for which a registration is required due to bona fide retirement or disability may apply to the board for retired status and, if granted, may use the title “retired registered interior designer” in the context of non-income-producing personal activities. If the board determines an applicant is eligible, the retired status would become effective on the first scheduled registration renewal date. Applicants do not need to reinstate an expired registration to be eligible for retired status. Applicants may apply for retired status on forms provided by the board. The board will not provide a refund of biennial registration fees if an application for retired status is granted in a biennium in which the applicant has previously paid the biennial fees. Persons registered in retired status are exempt from the renewal requirement. A person whose registration as an interior designer has been placed on probation, suspended, revoked, or voluntarily surrendered in connection with a disciplinary investigation or proceeding shall not be eligible for retired status unless, upon appropriate application, the board first reinstates the registration to good standing.

ITEM 5. Amend rule 193G—2.2(17A,272C,544C) as follows:

193G—2.2(17A,272C,544C) Renewal of certificates of registration. Certificates of registration expire biennially on June 30. Certificates issued to registrants with last names beginning with A through K shall expire on June 30 of even-numbered years and certificates issued to registrants with last names beginning with L through Z shall expire on June 30 of odd-numbered years. However, a registration issued on or after May 1 but before June 30 will not expire until June 30 of the next renewal. For example, a license issued on May 17, 2020, would not expire until June 30, 2022. In order to maintain authorization to practice in Iowa, a registrant is required to renew the certificate of registration prior to ~~the expiration date June 1 of the year of expiration.~~ However, the board will accept an otherwise sufficient renewal application which is untimely if the board receives the application and late fee of \$25 within 30 days ~~of~~ prior to the date of expiration. A registrant who fails to renew by the expiration date is not authorized to use the title of registered interior designer in Iowa until the certificate is reinstated as provided in rule 193G—2.3(544C,17A).

2.2(1) It is the policy of the board to send to each registrant at the registrant’s last-known address a notice of the pending expiration date ~~approximately one month prior to the date the certificate of registration is scheduled to expire.~~ Failure to receive this notice does not relieve the registrant of the responsibility to timely renew the certificate and pay the renewal fee.

2.2(2) No change.

2.2(3) When a registrant appears to be in violation of mandatory continuing education requirements, the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.40(546,272C), and after or in lieu of giving the licensee an opportunity to come into compliance under rule 193G—3.4(17A,544C), offer a registrant the opportunity to sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between \$50 and \$250, depending on the severity of the violation; establish deadlines for compliance; and require that the registrant complete hours equal to double the deficiency in addition to the required hours; and may impose additional educational requirements on the registrant. Any additional hours of continuing education completed in compliance with the consent order cannot again be claimed at the next renewal. The board will address subsequent offenses on a case-by-case basis. A registrant is free to accept or reject the offer. If the offer of settlement is accepted, the registrant will be issued a renewed certificate of registration and will be subject to disciplinary action if the terms of the consent order are not fulfilled. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the registrant pursuant to 193—subrule 7.40(1).

2.2(4) and 2.2(5) No change.

INTERIOR DESIGN EXAMINING BOARD[193G](cont'd)

ITEM 6. Amend rule 193G—2.3(544C,17A), catchwords, as follows:

193G—2.3(544C,17A) Reinstatement of certificates of registration to active status.

ITEM 7. Renumber rule 193G—2.4(544C) as 193G—2.5(544C).

ITEM 8. Adopt the following new rule 193G—2.4(544C):

193G—2.4(544C) Reinstatement from retired status to active status. An individual may reinstate a retired registration to an active license as follows:

2.4(1) Pay the current active registration fee. If the individual is reinstating to active status at a date that is less than 12 months from the next biennial renewal date, one-half of the current active license fee shall be paid.

2.4(2) Submit documented evidence of completion of 10 continuing education hours in compliance with requirements in 193G—Chapter 3. All continuing education hours must be completed in health, safety, and welfare subjects and acquired in structured educational activities. The hours used to reinstate to active status cannot again be used to renew.

a. At the first biennial renewal date of July 1 that is less than 12 months from the date of the filing of the application to restore the certificate of registration to active status, the person shall not be required to report continuing education hours.

b. At the first biennial renewal date of July 1 that is 12 months or more, but less than 24 months, from the date of the filing of the application to restore the certificate of licensure to active status, the person shall report 5 hours of previously unreported continuing education hours.

ITEM 9. Amend renumbered rule 193G—2.5(544C) as follows:

193G—2.5(544C) Applications.

2.5(1) The interior designer is responsible for verifying the accuracy of the information submitted on applications regardless of how the application is submitted or by whom it is submitted. For instance, if the office manager of an interior designer’s firm submits an application for renewal on behalf of the interior designer and that information is incorrect, the interior designer will be held responsible for the information and may be subject to disciplinary action.

2.5(2) Persons applying for initial, renewal, or reciprocal registration shall submit an application on a form provided by the board and shall pay a registration fee of \$275. Certificates issued to registrants with last names beginning with A through K shall expire on June 30 of even-numbered years, and certificates issued to registrants with last names beginning with L through Z shall expire on June 30 of odd-numbered years. An applicant applying for initial, reciprocal, or reinstatement registration within 12 months from the applicant’s required renewal date shall pay half of the required fee. An applicant applying for initial, reciprocal, or reinstatement registration more than 12 months from the applicant’s required renewal date shall pay the full registration fee.

2.5(3) Fee schedule.

| Type of fee | Amount |
|--------------------------------------|-------------|
| Initial registration fee | \$275 |
| Reciprocal registration fee | \$275 |
| Formal wall certificate | \$50 |
| Renewal | \$275 |
| Late renewal fee | \$25 |
| Reinstatement of lapsed registration | \$100 |
| <u>License predetermination fee</u> | <u>\$25</u> |

All fees are nonrefundable.

INTERIOR DESIGN EXAMINING BOARD[193G](cont'd)

ITEM 10. Amend subrule 3.2(3) as follows:

3.2(3) A registered interior designer who holds a registration in Iowa for less than 12 months from the date of initial registration shall not be required to report continuing education at the first registration renewal. A registered interior designer who holds a registration in Iowa for ~~more than~~ 12 months or more, but less than 24 months from the date of initial registration, shall be required to report 5 contact hours of HSW subjects in a structured activity, earned in the preceding 12 months, at the first registration renewal.

ITEM 11. Amend subrule 3.3(2) as follows:

3.3(2) The board ~~will may~~ verify, ~~on a random basis,~~ information submitted by registrants. If an application for renewal is not approved, the applicant will be so notified and may be granted a period of time by the board in which to correct the deficiencies noted. Any discrepancy between the number of CEUs reported and the number of CEUs actually supported by documentation may result in a disciplinary review. If, after the disciplinary review, the board disallows any CEUs, or the registrant has failed to complete the required CEUs, the interior designer shall have 60 days from notification by the board to either provide further evidence of having completed the CEUs disallowed or remedy the discrepancy by completing the required number of CEUs (provided that such CEUs shall not again be used for the next renewal). An extension of time may be granted on an individual basis and must be requested by the registrant within 30 days of notification by the board. If the registrant fails to comply with the requirements of this subrule, the registrant may be subject to disciplinary action. If the board finds, after proper notice and hearing, that the interior designer willfully disregarded these requirements or falsified documentation of required CEUs, the interior designer may be subject to disciplinary action.

ARC 5359C**IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]****Notice of Intended Action****Proposing rule making related to five-year review of rules
and providing an opportunity for public comment**

The Iowa Public Employees' Retirement System hereby proposes to amend Chapter 4, "Employers," Chapter 5, "Employees," Chapter 11, "Application for, Modification of, and Termination of Benefits," Chapter 12, "Calculation of Monthly Retirement Benefits," Chapter 13, "Disability for Regular and Special Service Members," Chapter 14, "Death Benefits and Beneficiaries," Chapter 17, "Public Records and Fair Information Practices," and Chapter 19, "Declaratory Orders," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 97B.4 and 97B.15.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 97B.

Purpose and Summary

This proposed rule making is intended to conform rules with other rules and statutes or rescind rules that are outdated, redundant or inconsistent, or no longer in effect to meet the requirements of the statutory five-year review of rules for Chapters 16 to 20; to implement contribution rates for employers and regular and special services members beginning July 1, 2021; to clarify and define "citizen coach" for employers; to clarify employers' reporting requirements for terminated employees; to ensure vendors with access to personally identifiable information (PII) sign IPERS' data-sharing agreement; to disallow funeral homes as beneficiaries; to streamline the retirement application process; to remove outdated language to better reflect modern member practice; to provide for overpayments to be collected more quickly and efficiently; to amend language to bring subrules into compliance with the Iowa Code; to

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

update language to reflect current practice regarding open records requests, estimates of search fees, and advance payments when necessary; to provide for usernames to be added as a category of confidential record ensuring they may be withheld from public inspection; to revise language to acknowledge and reflect changes in file storage technology; to strike and replace language to be consistent with actual practice; and to align the "required beginning date" specified under IRS regulations with the provisions of the SECURE Act.

Fiscal Impact

IPERS' enabling legislation requires that employer and employee contribution rates for each member class be updated every fiscal year.

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 IPERS for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by IPERS no later than 4:30 p.m. on January 29, 2021. Comments should be directed to:

Cheryl Vander Hart
Iowa Public Employees' Retirement System
7401 Register Drive
Des Moines, Iowa 50321
Phone: 515.281.7623
Email: cheryl.vanderhart@ipers.org

Public Hearing

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

January 29, 2021
9 a.m.

To participate by conference call:
Dial: 312.626.6799
Meeting ID number: 899 3701 7925
Pass code: 9614219527

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 IPERS 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).

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

The following rule-making actions are proposed:

ITEM 1. Amend rule 495—4.2(97B) as follows:

495—4.2(97B) Records to be kept by the employer.

4.2(1) and **4.2(2)** No change.

4.2(3) Reports.

a. No change.

b. Effective July 1, ~~1991~~ 2021, employers ~~must~~ shall report the termination date and date of final paycheck for all terminating employees to IPERS ~~within seven working days following the employee's termination date~~ with the final wage report for such employee. This report shall contain the employee's last-known mailing address and such other information as IPERS might require.

c. No change.

4.2(4) No change.

ITEM 2. Amend rule 495—4.6(97B) as follows:

495—4.6(97B) Contribution rates. The following contribution rate schedule, payable on the covered wage of the member, is determined by the position or classification and the occupation class code of the member.

4.6(1) Contribution rates for regular class members.

a. No change.

b. Effective July 1, 2012, and every year thereafter, the contribution rates for regular members shall be publicly declared by IPERS staff no later than the preceding December as determined by the annual valuation of the preceding fiscal year. The public declaration of contribution rates will be followed by rule making that will include a notice and comment period and that will become effective July 1 of the next fiscal year. Contribution rates for regular members are as follows.

| | Effective July 1, 2016 | Effective July 1, 2017 | Effective July 1, 2018 | Effective July 1, 2019 | Effective July 1, 2020 | Effective July 1, 2021 |
|---------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|
| Combined rate | 14.88% | 14.88% | 15.73% | 15.73% | 15.73% | <u>15.73%</u> |
| Employer | 8.93% | 8.93% | 9.44% | 9.44% | 9.44% | <u>9.44%</u> |
| Employee | 5.95% | 5.95% | 6.29% | 6.29% | 6.29% | <u>6.29%</u> |

4.6(2) Contribution rates for sheriffs and deputy sheriffs are as follows.

| | Effective July 1, 2016 | Effective July 1, 2017 | Effective July 1, 2018 | Effective July 1, 2019 | Effective July 1, 2020 | Effective July 1, 2021 |
|---------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|
| Combined rate | 19.26% | 18.76% | 19.52% | 19.02% | 18.52% | <u>18.02%</u> |
| Employer | 9.63% | 9.38% | 9.76% | 9.51% | 9.26% | <u>9.01%</u> |
| Employee | 9.63% | 9.38% | 9.76% | 9.51% | 9.26% | <u>9.01%</u> |

4.6(3) Contribution rates for protection occupations are as follows.

| | Effective July 1, 2016 | Effective July 1, 2017 | Effective July 1, 2018 | Effective July 1, 2019 | Effective July 1, 2020 | Effective July 1, 2021 |
|---------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|
| Combined rate | 16.40% | 16.40% | 17.02% | 16.52% | 16.02% | <u>15.52%</u> |
| Employer | 9.84% | 9.84% | 10.21% | 9.91% | 9.61% | <u>9.31%</u> |
| Employee | 6.56% | 6.56% | 6.81% | 6.61% | 6.41% | <u>6.21%</u> |

4.6(4) to 4.6(7) No change.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

ITEM 3. Adopt the following new subrule 5.2(51):

5.2(51) A citizen coach is an employee (permanent or temporary) who works for a school district in only a coaching capacity. An employer may provide a citizen coach with IPERS coverage immediately. If the employer chooses not to, then the following determination of IPERS coverage is needed:

a. If the citizen coach is expected to fill the position each season and cannot be unseated by another district employee, then the district and citizen coach have established a permanent relationship and IPERS coverage should begin once that citizen coach returns to coach a second season.

b. If there is no expectation of continued employment beyond the first season for the citizen coach, or if the citizen coach can be unseated by another district employee, then a temporary relationship exists and the citizen coach shall only be covered if the citizen coach meets the requirements of subrule 5.2(13).

ITEM 4. Amend subrule 11.1(1) as follows:

11.1(1) *Form used.* It is the responsibility of the member to notify IPERS of the intention to retire. This should be done 60 days before the expected retirement date. The application for monthly retirement benefits is obtainable from IPERS, 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117. The printed application form shall be completed by each member applying for benefits and shall be mailed, sent by fax or brought in person to IPERS. An application that is incomplete or incorrectly completed will be returned to the member. To be considered complete, an application must include the following:

a. to c. No change.

d. Signature of member and spouse, ~~both properly notarized unless witnessed by an authorized employee of the system.~~

e. to g. No change.

A retirement application is deemed to be valid and binding on the date the first payment is paid. Members shall not cancel their applications, change their option choice, or change an IPERS option containing contingent annuitant benefits after that date.

ITEM 5. Amend subrule 11.1(2) as follows:

11.1(2) *Proof required in connection with application.* Proof of date of birth to be submitted with an application for benefits shall be in the form of a birth certificate, a U.S. passport, an infant baptismal certificate, an identification card or driver's license issued by the state of Iowa, a state identification card that is issued in compliance with the REAL ID Act of 2005, or a driver's license that is issued in compliance with the REAL ID Act of 2005. If these records do not exist, the applicant shall submit two other documents or records which will verify the day, month and year of birth. A photographic identification record may be accepted even if now expired unless the passage of time has made it impossible to determine if the photographic identification record is that of the applicant. The following records or documents are among those deemed acceptable to IPERS as proof of date of birth:

a. to h. No change.

i. Adoption papers; or

~~*j.* A family Bible record. A photocopy will be accepted with a notarized certification that the record appears to be genuine; or~~

~~*k. j.* Any other document or record ten or more years old, or certification from the custodian of such records which verifies the day, month, and year of birth.~~

If the member, the member's representative, or the member's beneficiary is unable or unwilling to provide proof of birth, or in the case of death, proof of death, IPERS may rely on such resources as it has available, including but not limited to records from the Social Security Administration, Iowa division of records and statistics, IPERS' own internal records, or reports derived from other public records, and other departmental or governmental records to which IPERS may have access.

IPERS is required to begin making payments to a member or beneficiary who has reached the required beginning date specified by Internal Revenue Code Section 401(a)(9). In order to begin making such payments and to protect IPERS' status as a plan qualified under Internal Revenue Code Section 401(a), IPERS may rely on its internal records with regard to date of birth, if the member or

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

beneficiary is unable or unwilling to provide the proofs required by this subrule within 30 days after written notification of IPERS' intent to begin mandatory payments.

ITEM 6. Amend subrule 11.2(4) as follows:

11.2(4) Required beginning date.

a. Notwithstanding the foregoing, IPERS shall commence payment of a member's retirement benefit under Iowa Code sections 97B.49A to 97B.49I (under Option 2) no later than the "required beginning date" specified under Internal Revenue Code Section 401(a)(9), even if the member has not submitted the application for benefits. If the lump sum actuarial equivalent could have been elected by the member, payments shall be made in such a lump sum rather than as a monthly allowance. The "required beginning date" is defined as the later of: (1) April 1 of the year following the year that the member attains the age of 72 (or the age of 70 ½ for that member who attains the age of 70 ½ on or before December 31, 2019), or (2) April 1 of the year following the year that the member actually terminates all employment with employers covered under Iowa Code chapter 97B.

b. to e. No change.

ITEM 7. Amend rule 495—12.7(97B) as follows:

495—12.7(97B) Reemployment of retired members.

12.7(1) No change.

12.7(2) Beginning on or after July 1, 1996, the retirement allowance of a member subject to reduction pursuant to subrule 12.7(1) shall be reduced as follows:

a. and b. No change.

c. The member's overpayment shall be collected as follows:

(1) IPERS will reduce the member's gross monthly benefit by ~~30~~ 50 percent until the overpayment is repaid. If the ~~30~~ 50 percent reduction will not recover the overpayment by the end of the current calendar year, IPERS will calculate the monthly reduction amount so that the overpayment will be recovered within the current calendar year. Other monthly reduction amounts may be made by an agreement in writing between the member and IPERS; or

(2) to (4) No change.

12.7(3) to 12.7(5) No change.

ITEM 8. Amend subrule 13.1(2) as follows:

13.1(2) If a member returns to covered employment after achieving a bona fide retirement, ~~and is no longer eligible for social security or railroad disability benefits,~~ the benefits being provided to the member under Iowa Code section 97B.50(2) "a" or "b" shall be suspended or reduced as follows. If the member has not attained the age of 55 upon reemployment, benefit payments shall be suspended in their entirety until the member subsequently terminates employment, applies for, and is approved to receive benefits under the provisions of Iowa Code chapter 97B. If the member has attained the age of 55 or older upon reemployment, the member shall continue to receive monthly benefits adjusted as follows. Monthly benefits shall be calculated under the same benefit option that was first selected, based on the member's age, years of service, and the applicable reductions for early retirement as of the month that the member returns to covered employment. The suspension or reduction of benefits for returning to covered employment no longer applies as of the calendar year the member reaches normal retirement age, as defined by Iowa Code section 97B.45, or for special service members aged 55, or sheriffs and deputies aged 50 with 22 years of service. The member's benefit shall also be subject to the applicable provisions of Iowa Code section 97B.48A pertaining to reemployed retired members.

ITEM 9. Amend rule 495—14.3(97B) as follows:

495—14.3(97B) Designation of beneficiaries.

14.3(1) Designation of beneficiaries. To designate a beneficiary, the member must complete an IPERS designation of beneficiary form, which must be filed with IPERS. Members may also designate their beneficiary through the IPERS website. The designation of a beneficiary by a retiring member on the application for monthly benefits revokes all prior designation of beneficiary forms. IPERS

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

may consider as valid a designation of beneficiary form filed with the member's employer prior to the death of the member, even if that form was not forwarded to IPERS prior to the member's death. If a retired member is reemployed in covered employment, the most recently filed beneficiary form shall govern the payment of all death benefits for all periods of employment. Notwithstanding the foregoing sentence, a reemployed IPERS Option 4 or 6 retired member may name someone other than the member's contingent annuitant as beneficiary, but only for lump sum death benefits accrued during the period of reemployment and only if the contingent annuitant has died or has been divorced from the member before or during the period of reemployment unless a qualified domestic relations order (QDRO) directs otherwise. If a reemployed IPERS Option 4 or 6 retired member dies without filing a new beneficiary form, the death benefits accrued for the period of reemployment shall be paid to the member's contingent annuitant, unless the contingent annuitant has died or been divorced from the member. If the contingent annuitant has been divorced from the member, any portion of the lump sum death benefits awarded in a QDRO shall be paid to the contingent annuitant as alternate payee, and the remainder of the lump sum death benefits shall be paid to the member's estate or, if applicable, to the member's heirs if no estate is probated. A funeral home shall not be designated as a beneficiary.

14.3(2) to 14.3(4) No change.

ITEM 10. Amend rule 495—17.3(17A,22) as follows:

495—17.3(17A,22) Requests for access to records.

17.3(1) and 17.3(2) No change.

17.3(3) *Request for access.* Requests for access to open records may be made in writing, by telephone, electronically or in person. All requests shall include the name, address, telephone number, and the ~~E-mail~~ email address (if available) of the person requesting the information. All requests for information regarding member accounts must contain the member's identification number or social security number. Requests shall identify the particular records sought by name or other personal identifier and shall include a description in order to facilitate the location of the record. A person shall not be required to give a reason for requesting an open record. ~~The request shall indicate the maximum search fee the requester is prepared to pay. If the maximum amount is reached before the requested records have been located and copied, the requester shall be notified and asked for further directions. If a search fee is applicable, IPERS will contact the requesting party with an estimate prior to collecting the data.~~

17.3(4) to 17.3(6) No change.

17.3(7) *Fees.*

a. to d. No change.

e. Advance payments.

~~(1) When the estimated fee chargeable under this subrule exceeds \$25, the requester shall be required to make an advance payment of the estimated fee. Upon completion of the request for records, the actual fee shall be calculated and the difference refunded or collected.~~

~~(2) When a requester has previously failed to pay a an applicable search fee charged under this subrule, full advance payment of future estimated fees of any amount may be required before processing a new or pending request for access to records from that requester.~~

ITEM 11. Amend rule 495—17.13(17A,22) as follows:

495—17.13(17A,22) Availability of records.

17.13(1) No change.

17.13(2) *Confidential records.* The following records under the jurisdiction of the agency may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. to c. No change.

d. Records which are exempt from disclosure under Iowa Code sections 22.7 and 97B.17, including, but not limited to:

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

(1) and (2) No change.

(3) Log-on identification passwords, Internet protocol addresses, usernames, private keys, or other records containing information which might lead to disclosure of private keys used in a digital signature or other similar technologies as provided in Iowa Code chapter 554D.

(4) No change.

e. to i. No change.

17.13(3) No change.

ITEM 12. Amend subrules 17.14(1) to 17.14(3) as follows:

17.14(1) *IPERS personnel files and records.* Personnel files of IPERS employees are maintained and kept under the jurisdiction of the agency and contain personal, private, and otherwise confidential records under Iowa Code section 22.7(11). It is unlikely that the personal and private information in these records can be separated from otherwise releasable information without identifying the subject or the employee's family. These records contain names, social security numbers and other identifying numbers, ~~and are collected in the form of paper, microfilm, tape, and computer records.~~ Data processing systems permit the comparison of personally identifiable information in one record system with that in another system.

17.14(2) *Iowa public employees' retirement system.* The retirement system possesses records that concern individual public employees who are covered by IPERS and their families. Records are collected in accordance with Iowa Code chapter 97B and are confidential records in part under Iowa Code sections 22.7 and 97B.17. These records contain names, addresses, social security numbers, and other identifying numbers, ~~and are collected in the form of paper, microfilm, tape, and computer records.~~ Data processing systems permit the comparison of personally identifiable information in one record system with that in another system.

17.14(3) *Vendor contracts.* These are records pertaining to facilities management, training, investment management, and other services. These records are collected in accordance with Iowa Code chapter 97B and are confidential records in part under Iowa Code section 22.7. These records contain names, addresses, social security numbers, and other identifying numbers, ~~and are collected in the form of paper, microfilm, tape, and computer records.~~ Data processing systems permit the comparison of personally identifiable information in one record system with that in another system. Vendors that have access to personally identifiable information shall sign a data-sharing agreement as requested by IPERS.

ITEM 13. Strike "file-stamped copy" wherever it appears in **495—Chapter 19** and insert "date-stamped copy" in lieu thereof.

ARC 5372C

MEDICINE BOARD[653]

Notice of Intended Action

**Proposing rule making related to appointment of the executive director
and providing an opportunity for public comment**

The Board of Medicine hereby proposes to amend Chapter 1, "Administrative and Regulatory Authority," 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 135.11B.

MEDICINE BOARD[653](cont'd)

Purpose and Summary

During the 2019 Legislative Session, the General Assembly passed 2019 Iowa Acts, House File 766, section 59 (now codified as Iowa Code section 135.11B), which provides that the Executive Director of the Board of Medicine shall be appointed by the Director of the Department of Public Health. This Notice proposes to amend subrules 1.3(5) and 1.3(6) to reflect this change.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on January 21, 2021. Comments should be directed to:

Joseph Fraioli
Iowa Board of Medicine
400 SW Eighth Street, Suite C
Des Moines, Iowa 50309
Phone: 515.281.3614
Email: joseph.fraioli@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held via Google Meet at the link below. Participants may also call in via phone at the following phone number: (US) +1 971.801.0248. When prompted, enter PIN: 443 922 280#. Please mute your phones or microphones upon entering the meeting.

January 20, 2021
2 to 3 p.m.

Google Meet
meet.google.com/xwz-winy-fyw

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).

MEDICINE BOARD[653](cont'd)

The following rule-making action is proposed:

Amend rule 653—1.3(17A) as follows:

653—1.3(17A) Organization of board. The board:

1.3(1) to **1.3(4)** No change.

1.3(5) Has the authority to:

a. Administer the statutes and rules relating to the practice of medicine and surgery, osteopathic medicine and surgery, ~~and~~ the practice of acupuncture by acupuncturists, and the practice of genetic counseling by genetic counselors.

b. Review or investigate, upon receipt of a complaint or upon its own initiation, based upon information or evidence received, alleged violations of statutes or rules which relate to the practice of medicine and surgery, osteopathic medicine and surgery, ~~and~~ the practice of acupuncture by licensed acupuncturists, and the practice of genetic counseling by licensed genetic counselors.

c. to m. No change.

n. ~~Hire and supervise the executive director.~~ Advise the director of the department of public health in evaluating potential candidates for the position of executive director, consult with the director in the hiring of the executive director, and review and advise the director on the performance of the executive director in the discharge of the executive director's duties.

o. and p. No change.

1.3(6) ~~Appoints~~ Guide and direct a full-time executive director who:

a. Is not a member of the board.

b. Under the supervision of the director of the department of public health and the guidance or direction of the board performs administrative duties of the board including, but not limited to: staff supervision and delegation; administration and enforcement of the statutes and rules relating to the practice of medicine and surgery, osteopathic medicine and surgery, ~~and~~ the practice of acupuncture, and the practice of genetic counseling; issuance of subpoenas on behalf of the board or a committee of the board during the investigation of possible violations; and enunciation of policy on behalf of the board.

1.3(7) No change.

ARC 5370C

MEDICINE BOARD[653]

Notice of Intended Action

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

The Board of Medicine hereby proposes to amend Chapter 3, "Waivers and Variances," Chapter 8, "Fees," Chapter 9, "Permanent and Administrative Medicine Physician Licensure," Chapter 10, "Resident, Special and Temporary Physician Licensure," Chapter 11, "Continuing Education and Training Requirements," Chapter 13, "Standards of Practice and Principles of Medical Ethics," Chapter 17, "Licensure of Acupuncturists," Chapter 19, "Prescribing Psychologists," Chapter 20, "Licensure of Genetic Counselors," Chapter 21, "Physician Supervision of a Physician Assistant," and Chapter 23, "Grounds for Discipline," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 272C.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2389.

MEDICINE BOARD[653](cont'd)

Purpose and Summary

2020 Iowa Acts, House File 2389, amends Iowa Code chapter 17A to remove the term “variance” and requires that agencies’ rules about waiver procedures refer only to waivers. This proposed rule making reflects the changes required by 2020 Iowa Acts, House File 2389, by removing the word “variance” from the Board of Medicine’s 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 Board for a waiver of the discretionary provisions, if any, pursuant to 653—Chapter 3.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on January 21, 2021. Comments should be directed to:

Joseph Fraioli
Iowa Board of Medicine
400 SW Eighth Street, Suite C
Des Moines, Iowa 50309
Phone: 515.281.3614
Email: joseph.fraioli@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held via Google Meet at the link below. Participants may also call in via phone at the following phone number: (US) +1 971.801.0248. When prompted, enter PIN: 443 922 280#. Please mute your phones or microphones upon entering the meeting.

January 20, 2021
1 to 2 p.m.

meet.google.com/xwz-winy-fyw
Google Meet Location

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).

MEDICINE BOARD[653](cont'd)

The following rule-making actions are proposed:

ITEM 1. Amend **653—Chapter 3**, title, as follows:
WAIVERS AND VARIANCES

ITEM 2. Amend rule 653—3.1(17A,147,148) as follows:

653—3.1(17A,147,148) Definition. For purposes of this chapter, a “waiver ~~or variance~~” means an action by the board which suspends, in whole or in part, the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. ~~For simplicity, the term “waiver” shall include both a “waiver” and a “variance.”~~

ITEM 3. Amend rule 653—3.4(17A,147,148), introductory paragraph, as follows:

653—3.4(17A,147,148) Criteria for waiver ~~or variance~~. In response to a petition completed pursuant to rule ~~3.6(17A,147,148)~~ 653—3.6(17A,147,148), the board may, in its sole discretion, issue an order waiving, in whole or in part, the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

ITEM 4. Amend rule 653—3.17(17A,147,148) as follows:

653—3.17(17A,147,148) Sample petition for waiver. A petition for waiver filed in accordance with this chapter must meet the requirements specified herein and must substantially conform to the following form:

BEFORE THE BOARD OF MEDICINE

| | | |
|---|---|---|
| Petition by (name of petitioner) for the waiver/ variance of (insert rule citation) relating to (insert the subject matter). | } | PETITION FOR WAIVER/ VARIANCE |
|---|---|---|

1. Provide the name, address, and telephone number of the petitioner (person asking for a waiver ~~or variance~~). Also, the name, address, and telephone number of the petitioner’s legal representative, if applicable, and a statement indicating the person to whom communications concerning the petition should be directed.

2. to 7. No change.

8. Provide the name, address, and telephone number of any person or entity that would be adversely affected by the grant of the waiver ~~or variance~~.

9. and 10. No change.

I hereby attest to the accuracy and truthfulness of the above information.

| | |
|------------------------|------|
| Petitioner’s signature | Date |
|------------------------|------|

ITEM 5. Amend rule 653—8.11(17A,147,148,272C) as follows:

653—8.11(17A,147,148,272C) Waiver ~~or variance~~ prohibited. Licensure and examination fees in this chapter are not subject to waiver ~~or variance~~ pursuant to 653—Chapter 3 or any other provision of law.

ITEM 6. Amend rule 653—9.18(17A,147,148,272C) as follows:

653—9.18(17A,147,148,272C) Waiver ~~or variance~~ requests. Waiver ~~or variance~~ requests shall be submitted in conformance with 653—Chapter 3.

MEDICINE BOARD[653](cont'd)

ITEM 7. Amend rule 653—10.6(17A,147,148,272C) as follows:

653—10.6(17A,147,148,272C) Waiver ~~or variance~~ requests. Waiver ~~or variance~~ requests shall be submitted in conformance with 653—Chapter 3.

ITEM 8. Amend rule 653—11.6(17A,147,148E,272C) as follows:

653—11.6(17A,147,148E,272C) Waiver ~~or variance~~ requests. Waiver ~~or variance~~ requests shall be submitted in conformance with 653—Chapter 3.

ITEM 9. Amend rule 653—13.21(17A,147,148,272C) as follows:

653—13.21(17A,147,148,272C) Waiver ~~or variance~~ prohibited. Rules in this chapter are not subject to waiver ~~or variance~~ pursuant to 653—Chapter 3 or any other provision of law.

ITEM 10. Amend subrule 17.4(2) as follows:

17.4(2) Waiver ~~or variance~~ prohibited. Provisions of this rule are not subject to waiver ~~or variance~~ pursuant to IAC 653—Chapter 3 or any other provision of law.

ITEM 11. Amend subrule 17.5(13) as follows:

17.5(13) Waiver ~~or variance~~ prohibited. Provisions of this rule are not subject to waiver ~~or variance~~ pursuant to IAC 653—Chapter 3 or any other provision of law.

ITEM 12. Amend rule 653—17.11(147,148E,272C), introductory paragraph, as follows:

653—17.11(147,148E,272C) General disciplinary provisions. The board is authorized to take disciplinary action against any licensee who violates the provisions set forth in state law and administrative rules pertaining to the safe and healthful practice of acupuncture. This rule is not subject to waiver ~~or variance~~ pursuant to IAC 653—Chapter 3 or any other provision of law.

ITEM 13. Amend rule 653—17.30(147,148E,272C) as follows:

653—17.30(147,148E,272C) Waiver ~~or variance~~ prohibited. Fees in this chapter are not subject to waiver ~~or variance~~ pursuant to 653—Chapter 3 or any other provision of law.

ITEM 14. Amend **653—Chapter 17**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 148E and sections 17A.10 to 17A.20, 147.55, 272C.3 to 272C.6, 272C.8 and 272C.9 ~~and Iowa Code chapter 148E as amended by 2000 Iowa Acts, chapter 1053.~~

ITEM 15. Amend rule 653—19.8(148,154B) as follows:

653—19.8(148,154B) Joint waiver ~~or variance~~—joint rule. Any rule identified as a joint rule may only be waived upon approval by both the board and the board of medicine.

ITEM 16. Amend subrule 20.8(12) as follows:

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

ITEM 17. Amend rule 653—20.20(147,148H,272C), introductory paragraph, as follows:

653—20.20(147,148H,272C) Grounds for discipline of genetic counselors. The board has authority to impose discipline for any violation of Iowa Code chapter 147, 148H, or 272C or the rules promulgated thereunder. These grounds for discipline apply to genetic counselors. This rule is not subject to waiver ~~or variance~~ pursuant to 653—Chapter 3 or any other provision of law. The board may impose any of the disciplinary sanctions set forth in 653—subrule 25.25(1), when the board determines that the licensee is guilty of any of the following acts or offenses:

MEDICINE BOARD[653](cont'd)

ITEM 18. Amend rule 653—20.25(147,148H,272C) as follows:

653—20.25(147,148H,272C) Waiver or variance prohibited. Fees in this chapter are not subject to waiver or variance pursuant to 653—Chapter 3 or any other provision of law.

ITEM 19. Amend rule 653—21.8(17A,147,148,272C) as follows:

653—21.8(17A,147,148,272C) Waiver or variance requests. Waiver or variance requests shall be submitted in conformance with 653—Chapter 3.

ITEM 20. Amend rule 653—23.1(272C), introductory paragraph, as follows:

653—23.1(272C) Grounds for discipline. The board has authority to impose discipline for any violation of Iowa Code chapter 147, 148, 148E, 252J, or 272C or 2008 Iowa Acts, Senate File 2428, ~~division H, or 272D~~ or the rules promulgated thereunder. The grounds for discipline apply to physicians and acupuncturists. This rule is not subject to waiver or variance pursuant to 653—Chapter 3 or any other provision of law. The board may impose any of the disciplinary sanctions set forth in 653—subrule 25.25(1), including civil penalties in an amount not to exceed \$10,000, when the board determines that the licensee is guilty of any of the following acts or offenses:

ARC 5369C

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rule making related to Iowa prescription monitoring program and providing an opportunity for public comment

The Board of Pharmacy hereby proposes to amend Chapter 37, “Iowa Prescription Monitoring Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 124.554.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 124.551, 124.553 and 124.554 as amended by 2020 Iowa Acts, Senate File 2120.

Purpose and Summary

The proposed amendments implement changes made to the Iowa Code during the 2020 Legislative Session, including the reporting of Schedule V controlled substances to the database and veterinarian access to program data, and revise the definition of “health care professional.”

Fiscal Impact

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

Jobs Impact

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

Waivers

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

PHARMACY BOARD[657](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 Board no later than 4:30 p.m. on January 19, 2021. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule **657—37.2(124)**, definitions of “Controlled substance,” “Health care professional” and “Reportable prescription,” as follows:

“*Controlled substance*” means a drug in Schedules II through ~~IV~~ V set forth in Iowa Code chapter 124, division II.

“*Health care professional*” means a person who, by ~~education, training,~~ certification, registration, or licensure, is qualified to provide and is engaged in providing health care to patients. “Health care professional” does not include clerical or administrative staff. A health care professional shall be ~~licensed, registered, certified, or otherwise~~ credentialed in a manner that permits verification and regulation of the health care professional’s credentials.

“*Reportable prescription*” means the record of a controlled substance administered or dispensed by a practitioner and the record of an opioid antagonist dispensed by a practitioner or administered by a first responder. “Reportable prescription” shall not include records identified in subrule 37.7(1). “Reportable prescription” shall include, but not be limited to:

1. to 3. No change.
4. The dispensing of a controlled substance sample; ~~and~~
5. The dispensing of a controlled substance or opioid antagonist to a patient upon discharge from a hospital or care facility; and
6. The dispensing of a Schedule V controlled substance without a prescription pursuant to rule 657—10.33(124,155A).

ITEM 2. Adopt the following new definitions of “Client” and “Patient” in rule **657—37.2(124)**:

“*Client*” means the owner, owner’s designee, or other person responsible for an animal patient.

“*Patient*” means a person or animal to whom a prescription is prescribed or dispensed.

ITEM 3. Adopt the following new paragraph **37.7(1)“d”**:

d. The sale by a licensed pharmacy of a Schedule V controlled substance without a prescription is subject to the reporting requirements of 657—Chapter 100.

PHARMACY BOARD[657](cont'd)

ITEM 4. Amend rule 657—37.8(124) as follows:

657—37.8(124) PMP reporting—dispensing prescribers. Each dispensing prescriber, unless exempt pursuant to rule 657—37.7(124), shall submit to the PMP a record of each reportable prescription dispensed during a reporting period pursuant to subrule 37.12(2). For purposes of prescriber dispensing, the prescriber shall also be identified as the dispenser or pharmacy. A veterinarian may, but shall not be required to, submit to the PMP a record of reportable prescriptions dispensed by the veterinarian.

ITEM 5. Amend subrule 37.16(1) as follows:

37.16(1) Prescribers. A prescriber may access a patient's prescription history report; the prescriber's activity report; proactive alerts or system user notes, such as peer-to-peer communication; and NarxCare reports. A veterinarian with authority to prescribe controlled substances may access a current patient's or client's prescription history report if the veterinarian has a reasonable basis to suspect the client may be abusing drugs or mistreating an animal.

ITEM 6. Amend subrule 37.16(2) as follows:

37.16(2) Pharmacists.

a. A pharmacist may access a patient's or client's prescription history report; proactive alerts or system user notes, such as peer-to-peer communication; and NarxCare reports.

b. A pharmacist shall review a patient's prescription history report prior to dispensing a Schedule V controlled substance without a prescription pursuant to rule 657—10.33(124,155A).

ARC 5365C

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rule making related to temporary designation of controlled substances and providing an opportunity for public comment

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

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 124.201.

State or Federal Law Implemented

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

Purpose and Summary

The proposed amendments temporarily add two substances (both Food and Drug Administration-approved prescription drugs) to the Iowa Controlled Substances Act in response to similar scheduling action taken by the federal Drug Enforcement Administration (DEA).

Fiscal Impact

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

Jobs Impact

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

PHARMACY BOARD[657](cont'd)

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on January 19, 2021. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 10.39(2) as follows:

10.39(2) Amend Iowa Code section 124.210(3) by adding the following new ~~paragraph~~ paragraphs:
be. No change.
bf. Remimazolam.

ITEM 2. Adopt the following **new** subrule 10.39(6):

10.39(6) Amend Iowa Code section 124.206(3) by adding the following new paragraph:
ad. Oliceridine.

ARC 5367C

PROFESSIONAL LICENSURE DIVISION[645]**Notice of Intended Action****Proposing rule making related to licensure and providing an opportunity for public comment**

The Professional Licensure Division hereby proposes to amend Chapter 4, “Board Administrative Processes,” and Chapter 5, “Fees”; adopt new Chapter 14, “Use of Criminal Convictions in Eligibility Determinations and Initial Licensing Decisions,” and new Chapter 19, “License by Verification and Applicants with Work Experience”; and amend Chapter 20, “Military Service, Veteran Reciprocity, and Spouses of Active Duty Service Members,” Iowa Administrative Code.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3, 147.80 and 272C.4 and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 147 and 272C and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627, and remove references to duplicate wallet cards to accommodate electronic renewal verification. The proposed amendments provide:

- Removal of references to duplicate wallet cards in light of electronic renewal verification;
- Addition of a new Chapter 14 regarding the use of criminal convictions in eligibility determinations and initial licensure decisions, as set forth in 2020 Iowa Acts, House File 2627;
- Addition of a new Chapter 19 to set forth the procedures for license by verification and applicants with work experience, as set forth in 2020 Iowa Acts, House File 2627; and
- Removal of the term “spouse” in chapter 20 as a result of 2020 Iowa Acts, House File 2627, section 24, which struck Iowa Code section 272C.4(13).

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. Licensees would no longer need to pay to receive duplicate wallet cards and instead would be able to print their own renewal verification if needed. It is also unknown how many individuals would seek an eligibility determination due to a criminal conviction prior to applying, which determination would result in the collection by the Division of a \$25 fee to recover the associated costs as set forth in 2020 Iowa Acts, House File 2627.

Jobs Impact

There is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

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 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 January 19, 2021. Comments should be directed to:

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

January 19, 2021
9 to 9:30 a.m.

Webex ID : 1468944924
Password: vN6b6Vk*
(US) +1 408.418.9388 (toll)
Access code: 146 894 492 4

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 645—4.8(147) as follows:

645—4.8(147) Duplicate certificate or wallet card.

4.8(1) A duplicate ~~wallet card or duplicate~~ certificate shall be required if the current ~~wallet card or~~ certificate is lost, stolen or destroyed. A duplicate ~~wallet card or a duplicate~~ certificate shall be issued only under such circumstances.

4.8(2) A duplicate ~~wallet card or duplicate~~ certificate shall be issued upon receipt of the completed application for duplicate license and payment of the fee as specified in 645—Chapter 5.

4.8(3) If the board receives a completed application for a duplicate license stating that the ~~wallet card or~~ certificate was not received within 60 days after being mailed by the board, no fee shall be required for issuing the ~~duplicate wallet card or~~ duplicate certificate.

ITEM 2. Amend rule 645—4.9(147) as follows:

645—4.9(147) Reissued certificate or wallet card. The board shall reissue a certificate ~~or current wallet card~~ upon receipt of a written request from the licensee, return of the original document and payment of the fee as specified in 645—Chapter 5.

ITEM 3. Amend subrule 5.1(6) as follows:

5.1(6) Duplicate or reissued license certificate ~~or wallet card~~ fee is \$20.

ITEM 4. Amend subrule 5.2(14) as follows:

5.2(14) Duplicate or reissued license certificate ~~or wallet card~~ fee is \$20.

ITEM 5. Amend subrule 5.3(7) as follows:

5.3(7) Duplicate or reissued license certificate ~~or wallet card~~ fee is \$20.

ITEM 6. Amend subrule 5.4(6) as follows:

5.4(6) Duplicate or reissued license certificate ~~or wallet card~~ fee is \$20.

ITEM 7. Amend subrule 5.5(5) as follows:

5.5(5) Duplicate or reissued license certificate ~~or wallet card~~ fee is \$20.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- ITEM 8. Amend subrule 5.6(5) as follows:
5.6(5) Duplicate or reissued license certificate ~~or wallet card~~ fee is \$20.
- ITEM 9. Amend subrule 5.7(7) as follows:
5.7(7) Duplicate or reissued license certificate ~~or wallet card~~ fee is \$20.
- ITEM 10. Amend subrule 5.8(6) as follows:
5.8(6) Duplicate or reissued license certificate ~~or wallet card~~ fee is \$20.
- ITEM 11. Amend subrule 5.9(5) as follows:
5.9(5) Duplicate or reissued license certificate ~~or wallet card~~ fee is \$20.
- ITEM 12. Amend subrule 5.10(5) as follows:
5.10(5) Duplicate or reissued license certificate ~~or wallet card~~ fee is \$20.
- ITEM 13. Amend subrule 5.11(6) as follows:
5.11(6) Duplicate or reissued license certificate ~~or wallet card~~ fee is \$20.
- ITEM 14. Amend subrule 5.12(5) as follows:
5.12(5) Duplicate or reissued license certificate ~~or wallet card~~ fee is \$20.
- ITEM 15. Amend subrule 5.13(6) as follows:
5.13(6) Duplicate or reissued license certificate ~~or wallet card~~ fee is \$20.
- ITEM 16. Amend subrule 5.14(6) as follows:
5.14(6) Duplicate or reissued license certificate ~~or wallet card~~ fee is \$20.
- ITEM 17. Amend subrule 5.15(8) as follows:
5.15(8) Duplicate or reissued license certificate ~~or wallet card~~ fee is \$20.
- ITEM 18. Amend subrule 5.16(5) as follows:
5.16(5) Duplicate or reissued license certificate ~~or wallet card~~ fee is \$20.
- ITEM 19. Amend subrule 5.17(5) as follows:
5.17(5) Duplicate or reissued license certificate ~~or wallet card~~ fee is \$20.
- ITEM 20. Amend subrule 5.18(5) as follows:
5.18(5) Duplicate or reissued license certificate ~~or wallet card~~ fee is \$20.
- ITEM 21. Amend subrule 5.19(5) as follows:
5.19(5) Duplicate or reissued license certificate ~~or wallet card~~ fee is \$20.
- ITEM 22. Amend subrule 5.20(5) as follows:
5.20(5) Duplicate or reissued license certificate ~~or wallet card~~ fee is \$20.
- ITEM 23. Adopt the following new 645—Chapter 14:

CHAPTER 14

USE OF CRIMINAL CONVICTIONS IN ELIGIBILITY DETERMINATIONS AND INITIAL LICENSING DECISIONS

645—14.1(272C) Definitions.

“*Complete criminal record*” includes the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

“*Conviction*” means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. “Conviction” includes Alford pleas and pleas of nolo contendere.

“*Disqualifying offense*” means a conviction directly related to the duties and responsibilities of the profession. A conviction is directly related to the duties and responsibilities of the profession if either (1) the actions taken in furtherance of an offense are actions customarily performed within the scope of

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

practice of a licensed profession, or (2) the circumstances under which an offense was committed are circumstances customary to a licensed profession.

“*License*” means any license, registration, or permit issued by the board.

645—14.2(272C) License application. Unless an applicant for licensure petitions the board for an eligibility determination pursuant to rule 645—14.3(272C), the applicant’s convictions will be reviewed when the board receives a completed license application.

14.2(1) An applicant must disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

14.2(2) An applicant with one or more convictions shall submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the license application to be considered complete.

14.2(3) An applicant must submit as part of the license application all evidence of rehabilitation that the applicant wishes to be considered by the board.

14.2(4) The board may deny a license if the applicant has a disqualifying offense unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15.

14.2(5) An applicant with one or more disqualifying offenses who has been found rehabilitated must still satisfy all other requirements for licensure.

14.2(6) Any application fees paid will not be refunded if the license is denied.

645—14.3(272C) Eligibility determination.

14.3(1) An individual who has not yet submitted a completed license application may petition the board for a determination of whether one or more of the individual’s convictions are disqualifying offenses that would render the individual ineligible for licensure. An individual with a conviction is not required to petition the board for an eligibility determination prior to applying for licensure.

14.3(2) To petition the board for an eligibility determination of whether one or more of the petitioner’s convictions are disqualifying offenses, a petitioner shall submit all of the following:

- a. A completed petition for eligibility determination form;
- b. The complete criminal record for each of the petitioner’s convictions;
- c. A personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession and why the board should find the petitioner rehabilitated;
- d. All evidence of rehabilitation that the petitioner wishes to be considered by the board; and
- e. Payment of a nonrefundable fee of \$25.

645—14.4(272C) Appeal. A petitioner deemed ineligible or an applicant denied a license due to a disqualifying offense may appeal the decision in the manner and time frame set forth in the board’s written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The board’s rules governing contested case proceedings will apply unless otherwise specified in this rule. If the petitioner or applicant fails to timely appeal, the board’s written decision will become a final order.

14.4(1) An administrative law judge will serve as the presiding officer of the nondisciplinary contested case proceeding, unless the board elects to serve as the presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered shall be a proposed decision.

14.4(2) The contested case hearing shall be closed to the public, and the board’s review of a proposed decision shall occur in closed session.

14.4(3) The office of the attorney general shall represent the board’s initial ineligibility determination or license denial and shall have the burden of proof to establish that the petitioner or applicant’s convictions include at least one disqualifying offense. Upon satisfaction of this burden by a preponderance of the evidence by the office of the attorney general, the burden of proof shall shift to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

14.4(4) A petitioner or applicant must appeal an ineligibility determination or license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding shall be in accordance with Iowa Code chapter 17A.

645—14.5(272C) Future petitions or applications. If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant may not submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

These rules are intended to implement 2020 Iowa Acts, House File 2627.

ITEM 24. Adopt the following new 645—Chapter 19:

CHAPTER 19

LICENSURE BY VERIFICATION AND OF APPLICANTS WITH WORK EXPERIENCE

645—19.1(272C) Licensure by verification. Licensure by verification is available in accordance with the following.

19.1(1) Eligibility. A person may seek licensure by verification if the person is licensed in at least one other jurisdiction that has a scope of practice substantially similar to that of Iowa, the person has been licensed for a minimum of one year in the other jurisdiction, and either:

- a. The person establishes residency in the state of Iowa; or
- b. The person is married to an active duty member of the military forces of the United States and is accompanying the member on an official permanent change of station to a military installation located in the state of Iowa.

19.1(2) Board application. The applicant must submit the following:

- a. A completed application for licensure by verification.
- b. Payment of the application fee.
- c. Completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check, if required for initial licensure by the board.
- d. A verification form, completed by the licensing authority in the jurisdiction that issued the applicant's license, verifying that the applicant's license in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form must be sent directly from the licensing authority to the board.
- e. Proof of residency in the state of Iowa or proof of military member's official permanent change of station. Proof of residency includes:
 - (1) A residential mortgage, lease, or rental agreement;
 - (2) A utility bill;
 - (3) A bank statement;
 - (4) A paycheck or pay stub;
 - (5) A property tax statement;
 - (6) A federal or state government document; or
 - (7) Any other board-approved document that reliably confirms Iowa residency.
- f. A copy of the complete criminal record if the applicant has a criminal history.
- g. A copy of the relevant disciplinary documents if another jurisdiction has taken disciplinary action against the applicant.
- h. A written statement from the applicant detailing the scope of practice in the other state.
- i. Copies of relevant laws setting forth the scope of practice in the other state.

19.1(3) Applicants with prior discipline. If another jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will neither issue a license nor deny the application for licensure until the matter is resolved. A person who has had a license revoked, or who has voluntarily surrendered a license, in another jurisdiction is ineligible for licensure by verification.

19.1(4) *Applicants with pending licensing complaints or investigations.* If an applicant is currently the subject of a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will neither issue a license nor deny the application for licensure until the complaint, allegation, or investigation is resolved.

19.1(5) *Compact privileges.* A person who has a privilege to practice in Iowa by virtue of an interstate licensure compact is ineligible for licensure by verification. Licenses issued pursuant to this rule do not grant privileges to practice in any other jurisdiction pursuant to any interstate licensure compact.

645—19.2(272C) Applicants with work experience in jurisdictions without licensure requirements.

19.2(1) *Work experience.* An applicant for initial licensure who has relocated to Iowa from another jurisdiction that did not require a professional license to practice in the profession may be considered to have met any educational and training requirements if the person has at least three years of work experience with a scope of practice substantially similar to that of the profession for which a license in Iowa is sought. The three years of work experience must be within the four years preceding the date of application for initial licensure. The applicant must satisfy all other requirements, including passing any required examinations, to receive a license.

19.2(2) *Required documentation.* An applicant who wishes to substitute work experience in lieu of satisfying applicable education or training requirements shall carry the burden of proving all of the following by submitting relevant documents as part of a completed license application:

- a. Proof of Iowa residency, which may include:
 - (1) A residential mortgage, lease, or rental agreement;
 - (2) A utility bill;
 - (3) A bank statement;
 - (4) A paycheck or pay stub;
 - (5) A property tax statement;
 - (6) A document issued by the federal or state government; or
 - (7) Any other board-approved document that reliably confirms Iowa residency.
 - b. Proof of three or more years of work experience within the four years preceding the application for licensure, which may include:
 - (1) A letter from the applicant's prior employer documenting the dates of employment;
 - (2) Pay checks or pay stubs;
 - (3) If the applicant is self-employed, business documents filed with the secretary of state; or
 - (4) Any other board-approved evidence of sufficient work experience.
 - c. Proof that the work experience was in a practice with a scope of practice substantially similar to that for the license sought in Iowa, which must include:
 - (1) A written statement by the applicant detailing the scope of practice; and
 - (2) Business or marketing materials detailing the services provided.
 - d. Proof that a professional license was not required in the other state, which may include:
 - (1) Copies of applicable laws;
 - (2) Materials from a website operated by a governmental entity; or
 - (3) Materials from a national professional association.
- These rules are intended to implement 2020 Iowa Acts, House File 2627.

ITEM 25. Amend **645—Chapter 20**, title, as follows:
 MILITARY SERVICE; AND VETERAN RECIPROCITY, ~~AND SPOUSES OF ACTIVE DUTY~~
~~SERVICE MEMBERS~~

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 26. Rescind the definition of “Spouse” in rule **645—20.1(272C)**.

ITEM 27. Amend rule 645—20.3(272C) as follows:

645—20.3(272C) Veteran and active duty military spouse reciprocity.

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

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

20.3(3) to 20.3(6) No change.

ITEM 28. Amend **645—Chapter 20**, implementation sentence, as follows:

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

ARC 5368C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

**Proposing rule making related to criminal convictions and wallet cards
and providing an opportunity for public comment**

The Board of Physician Assistants hereby proposes to amend Chapter 326, “Licensure of Physician Assistants,” and Chapter 329, “Discipline for Physician Assistants,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3, 147.10 and 272C.4 and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.10 and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627, by (1) updating the Board’s licensure rules to include a reference to a rule in the new 645—Chapter 19 (**ARC 5367C**, IAB 12/30/20), which implements new Iowa Code section 272C.12, and (2) updating the Board’s rules regarding criminal convictions as grounds for discipline. The proposed amendments also remove references to wallet cards.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. Licensees would no longer need to pay to receive duplicate wallet cards and instead would be able to print their own renewal verification if

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

needed. It is unknown how many applicants would continue to elect to submit paper applications, which would incur an additional cost to cover processing time, instead of using the online application system without incurring an additional cost.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

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 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 January 19, 2021. Comments should be directed to:

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

January 19, 2021
9:30 to 10 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 actions are proposed:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Adopt the following **new** subrule 326.4(7):

326.4(7) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements of licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 2. Amend subrules 326.9(5) to 326.9(7) as follows:

326.9(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license ~~and shall send the licensee a wallet card by regular mail~~. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

326.9(6) A person licensed to practice as a physician assistant shall keep the license certificate and ~~wallet card(s)~~ renewal displayed in a conspicuous public place at the primary site of practice.

326.9(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the ~~wallet card~~ renewal. The licensee shall be assessed a late fee as specified in ~~645—subrule 330.1(4)~~ 645—subrule 5.14(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 3. Rescind subrule 329.2(11) and adopt the following **new** subrule in lieu thereof:

329.2(11) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

ARC 5339C

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Proposing rule making related to the fire safe cigarette certification program and providing an opportunity for public comment

The State Fire Marshal Division hereby proposes to amend Chapter 61, “Reduced Ignition Propensity Cigarettes,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 101B.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 101B.

Purpose and Summary

The purposes of the proposed amendments to Chapter 61 are to update the process for submittal for certification and recertification and to provide updated contact information for the program.

Fiscal Impact

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

Jobs Impact

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

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 19, 2021. Comments should be directed to:

Sarah Jennings
Department of Public Safety
Oran Pape State Office Building
215 East 7th Street
Des Moines, Iowa 50319
Phone: 515.725.6185
Email: jennings@dps.state.ia.us

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend **661—Chapter 61**, title, as follows:
REDUCED IGNITION PROPENSITY CIGARETTES FIRE SAFE CIGARETTE CERTIFICATION PROGRAM

ITEM 2. Rescind rule **661—61.2(101B)**.

ITEM 3. Renumber rule **661—61.1(101B)** as **661—61.2(101B)**.

ITEM 4. Adopt the following **new** rule 661—61.1(101B):

661—61.1(101B) Certification program established. A fire safe cigarette certification program is hereby established in the state fire marshal division. The program shall issue certifications as provided in this chapter.

61.1(1) The fire safe cigarette certification program is located at the following address:
State Fire Marshal Division
Attn: SFM Licensing Administration
215 East 7th Street
Des Moines, Iowa 50319

PUBLIC SAFETY DEPARTMENT[661](cont'd)

61.1(2) The program may be contacted by electronic mail at sfmlicense@dps.state.ia.us or by the United States Postal Service.

NOTE: The website for the fire safe cigarette certification program is dps.iowa.gov/divisions/state-fire-marshal/fire-safe-cigarettes.

ITEM 5. Amend renumbered rule 661—61.2(101B) as follows:

661—61.2(101B) Definitions. The following definitions apply to rules 661—61.1(101B) through 661—61.21(101B):

“*Agent*” means a distributor as defined in Iowa Code section 453A.1 authorized by the department of revenue to purchase and affix stamps pursuant to Iowa Code section 453A.10.

“*Certified reduced ignition propensity fire safe cigarette*” means a unique cigarette brand style that meets the following criteria:

1. The unique cigarette brand style has been tested in accordance with the test method prescribed in rule 661—61.3(101B) or has been approved pursuant to rule 661—61.4(101B).

2. The unique cigarette brand style meets the performance standard specified in rule 661—61.3(101B) or has been approved pursuant to rule 661—61.4(101B).

3. A written certification for the unique cigarette brand style has been filed by the manufacturer with the department and in accordance with rule 661—61.10(101B).

4. Packaging for the unique cigarette brand style has been marked in accordance with rule 661—61.13(101B).

“*Cigarette*” means a cigarette as defined in Iowa Code section 453A.1, but shall not mean a tobacco product as defined in Iowa Code section 453A.1.

“*Department*” means the department of public safety.

“*Fire safe cigarette*” means a cigarette certified pursuant to this chapter.

“*Manufacturer*” means any of the following:

1. An entity that manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced, anywhere, which cigarettes the manufacturer intends to be sold in this state, including cigarettes intended to be sold in the United States through an importer.

2. The first purchaser of cigarettes anywhere, that intends to resell in the United States, cigarettes manufactured or produced anywhere, that the original manufacturer did not intend to be sold in the United States.

3. An entity that becomes a successor of an entity described in numbered paragraph “1” or “2” of this definition.

“*Quality control and quality assurance program*” means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the repeatability testing, and which program ensures that the testing repeatability remains within the required repeatability values specified in rule 661—61.3(101B).

“*Reduced ignition propensity cigarette*” means a cigarette certified pursuant to this chapter.

“*Repeatability*” means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall 95 percent of the time.

“*Retailer*” means retailer as defined in Iowa Code section 453A.1.

“*Sale*” means any transfer of title or possession, exchange or barter, in any manner or by any means or any agreement. In addition to cash and credit sales, the giving of cigarettes as a sample, prize, or gift or the exchanging of cigarettes for any consideration other than money is considered a sale.

“*Sell*” means to sell, or to offer or agree to sell.

“*Unique cigarette brand style*” means a cigarette with a unique combination of the following:

1. to 7. No change.

“*Wholesaler*” means wholesaler as defined in Iowa Code section 453A.1.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

ITEM 6. Amend subrule 61.4(2) as follows:

61.4(2) A manufacturer proposing an alternate test method and performance standard pursuant to this rule shall submit such proposal on a form provided by the department and shall send such form by certified mail, return receipt requested, ~~to~~ at the following address: specified in subrule 61.1(1).

~~Fire Marshal Division
State Public Safety Headquarters Building
215 East 7th Street
Des Moines, Iowa 50319~~

ITEM 7. Amend rule 661—61.6(101B) as follows:

661—61.6(101B) Retention of reports of testing. A manufacturer shall maintain for a period of three years copies of the reports of all tests conducted on all certified ~~reduced ignition propensity~~ fire safe cigarettes offered for sale and shall make copies of the reports available to the department and the office of the attorney general upon written request.

ITEM 8. Amend rules 661—61.10(101B) and 661—61.11(101B) as follows:

661—61.10(101B) Certification and fee.

61.10(1) Each manufacturer shall submit a written certification to the department attesting to all of the following:

a. Each certified ~~reduced ignition propensity~~ fire safe cigarette listed in the certification has been tested in accordance with rule 661—61.3(101B), 661—61.4(101B), or 661—61.5(101B).

b. Each certified ~~reduced ignition propensity~~ fire safe cigarette listed in the certification meets the performance standard specified in rule 661—61.3(101B) or approved under rule 661—61.4(101B).

61.10(2) Each certified ~~reduced ignition propensity~~ fire safe cigarette listed in the certification shall be described in the certification as follows:

- a.* The brand or trade name on the package.
- b.* The style of cigarette, such as light or ultra light.
- c.* The length of the cigarette in millimeters.
- d.* The circumference of the cigarette in millimeters.
- e.* The flavor of the cigarette, such as menthol or chocolate, if applicable.
- f.* Whether the cigarette is filtered or nonfiltered.
- g.* The type of cigarette package, such as soft pack or box.
- h.* The marking approved in accordance with Iowa Code Supplement section 101B.7.
- i.* The name, address, and telephone number of the laboratory, if different than the manufacturer, that conducted the test.
- j.* The date the testing was performed.

61.10(3) and **61.10(4)** No change.

61.10(5) For each cigarette listed in a certification, a manufacturer shall pay, electronically or by mail, a fee of \$100 to the department. Checks shall be made payable to the “Iowa Department of Public Safety.” ~~The memo portion of the check shall state “Reduced ignition propensity cigarettes.”~~

61.10(6) A certification and fee submitted pursuant to this rule shall be ~~sent~~ submitted online as indicated on the state fire marshal’s website or mailed to the following address: address specified in subrule 61.1(1).

~~Fire Marshal Division
State Public Safety Headquarters Building
215 East 7th Street
Des Moines, Iowa 50319~~

An application shall not be considered complete unless all required information is submitted, including required attachments and fees, and shall not be processed until it is complete.

661—61.11(101B) Changes to the manufacture of a certified ~~reduced ignition propensity~~ fire safe cigarette. If a manufacturer produces a cigarette certified pursuant to this chapter and makes any change

PUBLIC SAFETY DEPARTMENT[661](cont'd)

to the certified ~~reduced ignition propensity~~ fire safe cigarette thereafter that is likely to alter the cigarette's compliance with the ~~reduced cigarette ignition propensity~~ standards specified in this chapter, prior to the cigarette's being sold or offered for sale in this state, the manufacturer shall retest the cigarette in accordance with the testing standards specified in rule 661—61.3(101B) or shall propose an alternate test method and performance standard pursuant to rule 661—61.4(101B) or rule 661—61.5(101B), and shall maintain records of the retesting as required by rule 661—61.6(101B). Any altered cigarette that does not meet the performance standard specified in rule 661—61.3(101B) or approved pursuant to rule 661—61.4(101B) shall not be sold in this state.

ITEM 9. Amend rule 661—61.13(101B), catchwords, as follows:

661—61.13(101B) Marking ~~reduced ignition propensity~~ fire safe cigarette packaging.

ARC 5358C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to taxable and exempt sales and providing an opportunity for public comment

The Revenue Department hereby proposes to amend Chapter 18, “Taxable and Exempt Sales Determined by Method of Transaction or Usage,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 423.3 as amended by 2020 Iowa Acts, House File 2641.

Purpose and Summary

Through 2020 Iowa Acts, House File 2641, the Legislature added language to an exemption from sales tax for purchases by certain government entities and instrumentalities of the government. The exemption, Iowa Code section 423.3(31), did not previously include reference to tribal governments. By function of federal law and treaties, purchases by tribal governments have always been exempt. However, the lack of reference to tribal governments in the Iowa Code created confusion for taxpayers. Thus, the Department suggested through its departmental bill that the Legislature add this reference to the exemption.

Following the codification of this language, the Department reviewed its existing rule implementing the exemption. In addition to proposing new language to mention tribal governments, the Department felt the rule needed some overall reorganization to improve clarity. The Department also proposes to replace references to sales tax being due on “gross receipts” with “sales price,” and has rearranged and modified some of the examples from the prior version of this rule. These proposed changes are not intended to impact the types of purchases that are exempt or taxable for the applicable government entities or instrumentalities.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. The portion of 2020 Iowa Acts, House File 2641, being implemented by this rule making was not estimated to have a fiscal impact.

REVENUE DEPARTMENT[701](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 Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 19, 2021. Comments should be directed to:

Tim Reilly
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.725.2294
Email: tim.reilly@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Rescind rule 701—18.5(422,423) and adopt the following **new** rule in lieu thereof:

701—18.5(423) Sales to federal, state, county, municipal, or tribal government or the government’s agencies or instrumentalities.

18.5(1) Sales to government or agencies or instrumentalities.

a. A sale to a government or an agency or instrumentality of government occurs only if a government or an agency or instrumentality of government pursuant to a contract for sale, takes title or ownership to tangible personal property or a specified digital product, or receives an enumerated taxable service as a buyer from a seller.

b. No sale to a government or an agency or instrumentality of government occurs if a government or an agency or instrumentality of government pays some portion of the sales price of the sale of tangible personal property, a specified digital product, or a taxable service but title to and ownership of the tangible personal property or specified digital product are transferred to or a taxable service is received by another person as a result of the sale.

REVENUE DEPARTMENT[701](cont'd)

c. Independent contractors who deal with agencies, instrumentalities, or other entities of government do not, by virtue of their contracting with those entities, acquire immunity or exemption from taxation for themselves. Sales to these contractors are still subject to tax. See rule 701—19.12(422,423) for rules concerning construction contracts with designated exempt entities.

18.5(2) *Sales by or to the federal government or its agencies or instrumentalities.*

a. The sales price of the sale of tangible personal property, specified digital products, or enumerated taxable services made directly by or to the United States government or to recognized agencies, departments, or instrumentalities of the United States government shall not be subject to sales tax.

b. The sales price of retail sales made directly to patients, inmates, or employees of an institution or department of the United States government are taxable, as the sales are not made directly to the government. However, sales similarly made by post exchanges and other establishments organized and controlled by federal authority shall not be subject to sales tax.

EXAMPLE 1: Patient B purchases a hospital bed from a drugstore. A percentage of Patient B's bill is paid by federal funds from Medicaid. Because Patient B, not the federal government, purchased the hospital bed, Iowa sales tax is due.

EXAMPLE 2: Employee C is a federal government employee who eats at a restaurant while on government business. Employee C pays for the meal with a credit card. The credit card was issued in Employee C's name, and the cost of the meal is billed to Employee C, who pays it. The federal government later reimburses Employee C the entire cost of the meal. Because Employee C, not the federal government, purchased the meal, Iowa sales tax is due.

EXAMPLE 3: Similar to Example 2, Employee D is a federal government employee who eats at a restaurant while on government business. Employee D uses a credit card to pay for the meal. However, the credit card is issued in Employee D's name, but the cost of the meal is billed to the federal government, which pays that cost. Here, the federal government is the purchaser of the meal on Employee D's behalf, and the sale is exempt from tax.

18.5(3) *Sales to the state of Iowa or its agencies or instrumentalities.* The sales price of sales to the state of Iowa or agencies, departments, or instrumentalities of the state of Iowa are not taxable when used for public purposes.

EXAMPLE 1: City X, an exempt instrumentality, issues a bond to finance the construction of a school. Corporation Y purchases the bond but is not involved in the project in any other way. Since City X does not enjoy the benefits of earnings of the school, the exemption provided to the city is applicable.

EXAMPLE 2: Corporation Z, an instrumentality of the federal government which Congress has allowed by statute to be subject to state sales and use taxes, purchases tangible personal property. These purchases are subject to tax because the profits of the corporation are distributed to the corporation's stockholders.

18.5(4) *Sales to a tribal government and its agencies or instrumentalities.* The sales price of tangible personal property, specified digital products, or enumerated taxable services furnished to a tribal government as defined in Iowa Code section 216A.161, or an agency or instrumentality of tribal government, shall not be subject to tax when used for public purposes.

18.5(5) *Sales by a municipal utility.*

a. The sales price of tangible personal property, specified digital products, or services used by or in connection with the operation of any municipally owned public utility engaged in selling gas, electricity, pay television service, or heat to the general public shall be subject to tax.

b. Sewage service or solid waste collection and disposal service provided to a county or municipality on behalf of nonresidential commercial operations located within the county or municipality shall also be subject to tax. See rules 701—26.71(423) and 701—26.72(423) for more information.

This rule is intended to implement Iowa Code section 423.3(31).

ARC 5342C**STATE PUBLIC DEFENDER[493]****Notice of Intended Action****Proposing rule making related to waivers and indigent defense attorney contracts
and providing an opportunity for public comment**

The State Public Defender hereby proposes to amend Chapter 6, “Uniform Waiver and Variance Rules,” and Chapter 11, “Attorney Fee Contracts,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 13B.4(8).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 13B and 815.

Purpose and Summary

The purpose of the proposed amendments to Chapter 6 is to remove references to the term “variances” in places where the existing rule makes references to “waivers or variances.” The intent of the amendments is to be consistent with current Iowa Code terminology, which uses the term “waivers” to encompass both “waivers and variances.”

The purpose of the proposed amendments to the attorney minimum qualification requirements in rule 493—11.3(13B) is to expand the pool of qualified contract attorneys available to accept court appointments to represent indigent persons.

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 Office of the State Public Defender for a waiver of the discretionary provisions, if any, pursuant to 493—Chapter 6.

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 Office no later than 4:30 p.m. on January 19, 2021. Comments should be directed to:

Kurt Swaim
Office of the State Public Defender
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: kswaim@spd.state.ia.us

STATE PUBLIC DEFENDER[493](cont'd)

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend **493—Chapter 6**, title, as follows:

UNIFORM WAIVER AND VARIANCE RULES

ITEM 2. Amend rule 493—6.1(13B,17A) as follows:

493—6.1(13B,17A) Applicability. This chapter outlines a uniform process for the granting of waivers ~~or variances~~ from rules adopted by the state public defender. The intent of this chapter is to allow persons to seek exceptions to the application of rules issued by the state public defender.

ITEM 3. Amend rules 493—6.3(13B,17A) to 493—6.7(13B,17A) as follows:

493—6.3(13B,17A) Compliance with statute. The state public defender shall not grant a petition for waiver ~~or variance~~ from a rule unless a statute or other provision of law has delegated authority to the state public defender sufficient to justify that action and the waiver ~~or variance~~ is consistent with the statute or other provision of law. No waiver ~~or variance~~ may be granted from a requirement that is imposed by statute, unless the statute itself specifically authorizes that action. Any waiver ~~or variance~~ must be consistent with statute.

493—6.4(13B,17A) Criteria for waiver ~~or variance~~. At the sole discretion of the state public defender, the state public defender may issue an order, in response to a completed petition or on the state public defender’s own motion, granting a waiver ~~or variance~~ from a rule adopted by the state public defender, in whole or in part, as applied to the circumstances of a specified person or a specific and narrowly drawn class of persons if the state public defender finds based on clear and convincing evidence that:

1. The application of the rule to the petitioner would pose an undue hardship on the person or class of persons for whom the waiver ~~or variance~~ is requested;
2. The waiver ~~or variance~~ from the requirements of a rule in the specific case would not prejudice the substantial legal rights of any person;
3. The provisions of a rule subject to a petition for a waiver ~~or variance~~ are not specifically mandated by statute or another provision of law; and
4. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver ~~or variance~~ is requested.

493—6.5(13B,17A) Filing of petition. A petition for a waiver ~~or variance~~ must be submitted in writing to the State Public Defender, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0087. If the petition relates to a pending contested case, the petition shall also be filed in the contested case proceeding.

493—6.6(13B,17A) Content of petition. A petition for waiver ~~or variance~~ shall include the following information where applicable and known to the requester:

STATE PUBLIC DEFENDER[493](cont'd)

1. The name, address, and telephone number of the entity or person for whom a waiver ~~or variance~~ is being requested and the case number of any related contested case.
2. A description and citation of the specific rule from which a waiver ~~or variance~~ is requested.
3. The specific waiver ~~or variance~~ requested, including the precise scope and operative period that the waiver ~~or variance~~ will extend.
4. The relevant facts that the petitioner believes would justify a waiver ~~or variance~~. This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver ~~or variance~~.
5. A history of any prior contacts between the state public defender and the petitioner relating to the regulated activity, representation or other assigned function of the state public defender that would be affected by the proposed waiver ~~or variance~~, including a description of each regulated activity, representation or other assigned function of the state public defender, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity, representation or other assigned function of the state public defender within the last five years.
6. Any information known to the requester regarding the state public defender's treatment of similar cases.
7. The name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question or which might be affected by the granting of a waiver ~~or variance~~.
8. The name, address, and telephone number of any person or entity that would be adversely affected by the granting of a petition.
9. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver ~~or variance~~.
10. Signed releases of information authorizing persons with knowledge regarding the request to furnish the state public defender with information relevant to the waiver ~~or variance~~.

493—6.7(13B,17A) Additional information. Prior to issuing an order granting or denying a waiver ~~or variance~~, the state public defender may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the state public defender may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the state public defender or state public defender's designee.

ITEM 4. Amend rules 493—6.9(13B,17A) to 493—6.16(13B,17A) as follows:

493—6.9(13B,17A) Hearing procedures. The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver ~~or variance~~ of a rule filed within a contested case and shall otherwise apply to agency proceedings for a waiver ~~or variance~~ only when the state public defender so provides by rule or order or is required to do so by statute.

493—6.10(13B,17A) Ruling. An order granting or denying a waiver ~~or variance~~ shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and operative period of the waiver if one is issued.

6.10(1) State public defender discretion. The decision on whether the circumstances justify the granting of a waiver ~~or variance~~ shall be made at the discretion of the state public defender upon consideration of all relevant factors.

6.10(2) Burden of persuasion. The petitioner has the burden of persuasion when a petition is filed for a waiver ~~or variance~~ from a state public defender rule. The standard of proof is clear and convincing evidence.

6.10(3) Special waiver ~~or variance~~ rules not precluded. This chapter shall not preclude the state public defender from granting waivers ~~or variances~~ in other contexts or on the basis of other standards if a statute authorizes the state public defender to do so and the state public defender deems it appropriate to do so.

STATE PUBLIC DEFENDER[493](cont'd)

6.10(4) *Administrative deadlines.* When the rule from which a waiver ~~or variance~~ is sought establishes administrative deadlines, the state public defender shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all persons similarly situated.

6.10(5) *Conditions.* The state public defender may condition the granting of the waiver ~~or variance~~ on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question through alternative means and in compliance with the following provisions:

a. Each petition for a waiver ~~or variance~~ shall be evaluated by the state public defender based on the unique, individual circumstances set out in the petition;

b. A waiver ~~or variance~~, if granted, shall be drafted by the state public defender so as to provide the narrowest exception possible to the provisions of the rule;

c. The state public defender may place on a waiver ~~or variance~~ a condition that the state public defender finds desirable to protect the public health, safety, and welfare;

d. A waiver ~~or variance~~ shall not be permanent, unless the petitioner can show that a temporary waiver ~~or variance~~ would be impracticable; and

e. If a temporary waiver ~~or variance~~ is granted, there is no automatic right to renewal. At the sole discretion of the state public defender, a waiver ~~or variance~~ may be renewed if the state public defender finds that all of the factors set out in rule ~~493—6.4~~(13B,17A) remain valid.

6.10(6) *Time for ruling.* The state public defender shall grant or deny a petition for a waiver ~~or variance~~ as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the state public defender has the discretion to wait until the contested case is resolved before entering an order on the petition for waiver ~~or variance~~.

6.10(7) *When deemed denied.* Failure of the state public defender to grant or deny a petition within the required time period shall be deemed a denial of that petition by the state public defender.

6.10(8) *Service of order.* Within seven days of its issuance, any order issued under this chapter shall be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

493—6.11(13B,17A) *Public availability.* Subject to the provisions of Iowa Code section 17A.3(1) “e,” the state public defender shall maintain a record of all orders granting or denying waivers ~~and variances~~ under this chapter. All final rulings in response to requests for waivers ~~or variances~~ shall be indexed and available to members of the public at the state public defender’s office.

~~Twice each year the state public defender must prepare a report that:~~

- ~~1. Identifies the rules for which a waiver or variance has been granted or denied;~~
- ~~2. Identifies the number of times a waiver or variance was granted or denied for each rule;~~
- ~~3. Includes a citation to the statutory provisions implemented by these rules; and~~
- ~~4. Includes a general summary of the reasons justifying the state public defender’s actions.~~

493—6.12(13B,17A) *Voiding or cancellation.* A waiver ~~or variance~~ is void if the material facts upon which the request is based are not true or if material facts have been withheld. The state public defender may at any time cancel a waiver ~~or variance~~ upon appropriate notice and hearing if the state public defender finds that the facts as stated in the request are not true, material facts have been withheld, the alternative means of compliance provided in the waiver ~~or variance~~ have failed to achieve the objectives of the statute, or the requester has failed to comply with the conditions of the order.

493—6.13(13B,17A) *Violations.* Violation of conditions in the waiver ~~or variance~~ approval is the equivalent of violation of the particular rule for which the waiver ~~or variance~~ is granted and is subject to the same remedies or penalties.

STATE PUBLIC DEFENDER[493](cont'd)

493—6.14(13B,17A) Defense. After the state public defender issues an order granting a waiver ~~or variance~~, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

493—6.15(13B,17A) Appeals. Any request for an appeal from a decision granting or denying a waiver ~~or variance~~ shall be in accordance with the procedures provided in Iowa Code chapter 17A and state public defender rules. An appeal shall be taken within 30 days of the issuance of the ruling in response to the request unless a contrary time is provided by rule or statute.

493—6.16(13B,17A) Sample petition for waiver ~~or variance~~.

| | |
|---|---|
| BEFORE THE STATE PUBLIC DEFENDER | |
| Petition by (insert name of petitioner) for the waiver of (insert rule citation) relating to (insert the subject matter). | No. _____ PETITION FOR WAIVER |

Include the following information in the petition for waiver where applicable and known:

1. Provide the petitioner’s (the person who is asking for the waiver ~~or variance~~) name, address and telephone number.
2. Describe and cite the specific rule from which a waiver ~~or variance~~ is requested.
3. Describe the specific waiver ~~or variance~~ requested; include the exact scope and time period that the waiver ~~or variance~~ will extend.
4. Explain the important facts that the petitioner believes justify the waiver ~~or variance~~. Include in your explanation (a) why application of the rule would pose an undue hardship to the petitioner; (b) why granting the waiver ~~or variance~~ would not prejudice the substantial legal rights of any person; (c) state whether the provisions of a rule subject to this petition are specifically mandated by statute or another provision of law; and (d) state whether public health, safety or welfare will be affected if the requested waiver ~~or variance~~ is granted.
5. Provide history of prior contacts between the state public defender and the petitioner relating to the regulated activity, license, audit, investigation, inspection or representation that would be affected by the waiver ~~or variance~~. In that history, include a description of each affected regulated activity, license, appeal, hearing, audit, investigation, inspection, representation or other assigned function of the state public defender, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity, license, appeal, hearing, audit, investigation, inspection, representation or other assigned function of the state public defender within the last five years.
6. Provide information known to the petitioner regarding the state public defender’s treatment of similar cases.
7. Provide the name, address and telephone number of any public agency or political subdivision which also regulates the activity in question or which might be affected by the granting of a waiver ~~or variance~~.
8. Provide the name, address and telephone number of any person or entity that would be adversely affected or disadvantaged by the granting of the waiver ~~or variance~~.
9. Provide signed releases of information authorizing persons with knowledge regarding the request to furnish the state public defender with information relevant to the waiver ~~or variance~~.

I hereby attest to the accuracy and truthfulness of the above information.

| | |
|------------------------|------|
| Petitioner’s signature | Date |
|------------------------|------|

STATE PUBLIC DEFENDER[493](cont'd)

ITEM 5. Amend subrule 11.3(1) as follows:

11.3(1) Juvenile cases. To be eligible to contract to represent indigent persons in juvenile cases, including juvenile petitions on appeal, an attorney must be in compliance with Rule 8.36 of the Iowa Rules of Juvenile Procedure, regardless of whether the attorney seeks to represent parents or children or serve as guardian ad litem in juvenile court. An attorney contracting to represent indigent persons in juvenile cases must:

a. and *b.* No change.

The state public defender shall review juvenile contract renewals and may apply juvenile-related continuing legal education hours in the same manner as criminal-related continuing legal education hours.

ITEM 6. Amend subrule 11.3(2), introductory paragraph, as follows:

11.3(2) Appellate cases. To be eligible to contract to represent indigent persons in appellate cases, including direct appeals of criminal cases, appeals from postconviction relief proceedings, and appeals from any other case for which counsel is statutorily authorized to be paid from the indigent defense fund at the trial level except in cases where the attorney is statutorily appointed for purposes of the appeal, an attorney must:

ITEM 7. Amend subrules 11.3(3) and 11.3(4) as follows:

11.3(3) Postconviction relief cases. To be eligible to contract to represent indigent persons in postconviction relief cases at the trial level, an attorney must:

a. Have practiced criminal law or served as a judicial law clerk for two years or more in any state or federal court;

b. Participate in five hours of continuing legal education related to criminal law each calendar year in which the attorney has an active indigent defense contract and in the year prior to entering into the contract;

c. Participate in a postconviction relief basic training sponsored by the state public defender prior to entering into the contract, unless the attorney has previously handled at least three postconviction relief proceedings to completion; and

d. Provide the names of at least three judges or magistrates who can discuss the qualifications and effectiveness of the attorney to represent indigent persons in postconviction relief cases.

An attorney who has not met all the requirements may provide the state public defender additional detail regarding the attorney's experience and qualifications and the circumstances preventing the attorney from meeting all the requirements, and may be approved for contracting by the state public defender at the state public defender's sole discretion.

11.3(4) Class A ~~and B~~ felonies. To be eligible to contract to represent indigent persons in Class A ~~and Class B~~ felony cases at the trial level, an attorney must:

a. Have practiced criminal law for four years or more in any state or federal court;

b. Have tried at least five criminal jury trials involving indictable offenses to completion either as lead counsel or as a pro bono second attorney in a criminal jury trial if the service as pro bono second attorney is approved in advance for credit under this rule by the state public defender;

c. Participate in five hours of continuing legal education related to criminal law each calendar year in which the attorney has an active indigent defense contract and in the year prior to entering into the contract; and

d. Provide the names of at least three judges or magistrates who can discuss the qualifications and effectiveness of the attorney to represent indigent persons in Class A ~~and Class B~~ felony cases.

If an attorney satisfies the requirements for Class B felonies or Class C and Class D felonies, the attorney may contract to serve as the second attorney representing an indigent person in a Class A felony in a case where the first appointed attorney meets these requirements. An attorney who does not meet all the requirements of this subrule may provide the state public defender additional detail regarding the attorney's experience and qualifications and the circumstances preventing the attorney from meeting all the requirements and may be approved for contracting by the state public defender at the state public defender's sole discretion.

STATE PUBLIC DEFENDER[493](cont'd)

ITEM 8. Renumber subrules **11.3(5)** to **11.3(7)** as **11.3(6)** to **11.3(8)**.

ITEM 9. Adopt the following **new** subrule 11.3(5):

11.3(5) Class B felonies. To be eligible to contract to represent indigent persons in Class B felony cases at the trial level, an attorney must:

- a. Have practiced criminal law for three years or more in any state or federal court;
- b. Have tried at least three criminal jury trials involving indictable offenses to completion either as lead counsel or as a pro bono second attorney in a criminal jury trial if the service as pro bono second attorney is approved in advance for credit under this rule by the state public defender;
- c. Participate in five hours of continuing legal education related to criminal law each calendar year in which the attorney has an active indigent defense contract and in the year prior to entering into the contract; and
- d. Provide the names of at least three judges or magistrates who can discuss the qualifications and effectiveness of the attorney to represent indigent persons in Class B felony cases.

An attorney who has not met all requirements may provide the state public defender additional detail regarding the attorney's experience and qualifications and the circumstances preventing the attorney from meeting all the requirements and may be approved for contracting by the state public defender at the state public defender's sole discretion.

ITEM 10. Amend renumbered subrules 11.3(6) and 11.3(7) as follows:

11.3(6) Class C and D felonies. To be eligible to contract to represent indigent persons in Class C and Class D felony cases at the trial level, an attorney must:

- a. Have practiced criminal law for two years or more in any state or federal court;
- b. Have tried at least one criminal jury trial to completion either as lead counsel or as a pro bono second attorney in a criminal jury trial if the service as pro bono second attorney is approved in advance for credit under this rule by the state public defender;
- c. Participate in five hours of continuing legal education related to criminal law each calendar year in which the attorney has an active indigent defense contract and in the year prior to entering into the contract; and
- d. Provide the names of at least three judges or magistrates who can discuss the qualifications and effectiveness of the attorney to represent indigent persons in Class C and Class D felony cases.

An attorney who has not met all requirements may provide the state public defender additional detail regarding the attorney's experience and qualifications and the circumstances preventing the attorney from meeting all the requirements and may be approved for contracting by the state public defender at the state public defender's sole discretion.

11.3(7) Misdemeanor and other cases. To be eligible to contract to represent indigent persons in misdemeanor cases, probation and parole revocation cases, contempt proceedings, and any other adult criminal or civil cases for which counsel is statutorily authorized to be paid from the indigent defense fund at the trial level, an attorney must:

- a. Participate in the basic criminal defense training sponsored by the state public defender within one year of entering into the contract, unless the attorney already has an active indigent defense contract or has practiced criminal law for more than two years; and
- b. Participate in three hours of continuing legal education related to criminal law each calendar year in which the attorney has an active indigent defense contract.

However, an attorney who has a contract to handle any felony offense may accept appointments in misdemeanor cases, probation and parole revocation cases, and contempt cases for which counsel is statutorily authorized to be paid from the indigent defense fund at the trial level, but the attorney with the contract to handle the felony offense will not be added to the list disseminated to the clerks of court to handle misdemeanor cases, probation and parole cases, or contempt cases unless the attorney has secured an amendment to the attorney's contract to handle those types of cases.

ARC 5341C**TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rule making related to lighting of primary-secondary intersections
and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 136, “Lighting,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed 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 sections 306.4(1), 318.1, 318.2, 318.4, 318.5, 318.8, 318.9 and 318.12.

Purpose and Summary

The proposed amendments to Chapter 136 remove one of the criteria for determining the candidates for lighting, which has not been used to justify the lighting of any primary-secondary intersection for many years. The method using roadway and traffic factors is proposed to be eliminated because the Department is unable to find the background on this method, and the method is not included in any of the current lighting reference materials.

Other proposed amendments update the Iowa Code sections cited within three implementation sentences to be consistent with the current Iowa Code, update the name of Form 810025, and add the Department’s website so that the form can be easily accessed. Also, this rule making states that the departmental specifications and standard road plans are available on the Department’s website.

Finally, the proposed amendments correct the name of the Traffic and Safety Bureau.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 19, 2021. Comments should be directed to:

TRANSPORTATION DEPARTMENT[761](cont'd)

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

If requested, a public hearing to hear oral presentations will be held on January 21, 2021, via conference call from 1 to 2 p.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on January 19, 2021, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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

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

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

Review by Administrative Rules Review Committee

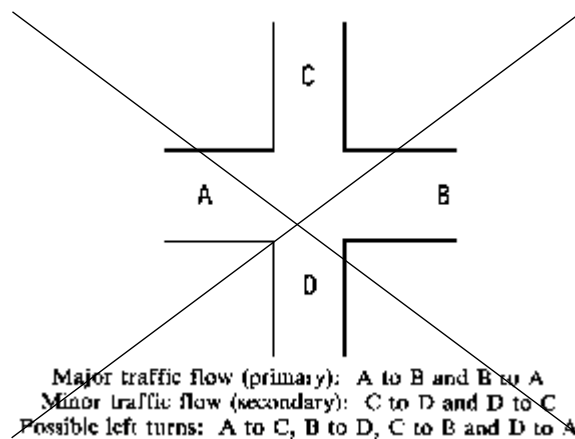
The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's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

The following rule-making actions are proposed:

ITEM 1. Amend rule 761—136.1(319) as follows:

761—136.1(319 306,318) Lighting of primary-secondary intersections. The purpose of this rule is to establish the qualification criteria ~~for, application procedure~~ the procedures to request, and the financial responsibilities for the placement of roadway luminaires within the limits of the primary road right-of-way at a rural intersection of a primary road and a paved secondary road.

136.1(1) Lighting criteria. A primary-secondary intersection is a candidate for lighting if one of the following is met:



a. to d. No change.

e. ~~After making the following calculations, the total in subparagraph (3) below exceeds 3000 points.~~

TRANSPORTATION DEPARTMENT[761](cont'd)

(1) Determine the “Roadway/Traffic Factors” for traffic at A and for traffic at B, using the following formula and “Standard Sight Distances for Speed”:

$$\text{Roadway/Traffic Factor} = \frac{\text{Standard Passing Sight Distance for Speed}}{\text{Actual Sight Distance}} \times \frac{\text{Actual Approaching Traffic Volume}}{1000}$$

Standard Passing Sight Distances For Posted Speeds

| Speed | Distance |
|--------|----------|
| 55 mph | 2000 ft. |
| 50 mph | 1800 ft. |
| 45 mph | 1700 ft. |
| 40 mph | 1500 ft. |

(2) Compare the two answers; the larger number is the “Greater Roadway/Traffic Factor.”

(3) Calculate points based on the following formula, using current average daily traffic (ADT):

| | | |
|---|---|-------|
| Greater Roadway/Traffic Factor × Traffic Volume from C to D | = | ===== |
| Greater Roadway/Traffic Factor × Traffic Volume from D to C | = | ===== |
| Greater Roadway/Traffic Factor × Traffic Volume from C to B × (1.5) | = | ===== |
| Greater Roadway/Traffic Factor × Traffic Volume from D to A × (1.5) | = | ===== |
| Roadway/Traffic Factor for A × Traffic Volume from B to D × (1.5) | = | ===== |
| Roadway/Traffic Factor for B × Traffic Volume from A to C × (1.5) | = | ===== |
| TOTAL | = | ===== |

136.1(2) No change.

136.1(3) Procedures.

a. No change.

b. The district engineer shall forward the request to the department’s office of traffic and safety bureau for review.

c. and d. No change.

This rule is intended to implement Iowa Code sections ~~319.1, 319.12, 319.14~~ 306.4(1), 318.1, 318.2, 318.4, 318.5, 318.8, 318.9 and 318.12.

ITEM 2. Amend rule 761—136.2(319) as follows:

761—136.2(319 306,318) Destination lighting. The purpose of this rule is to establish the application procedure and financial responsibilities for the placement of a roadway luminaire within the limits of primary road right-of-way at a rural intersection of a primary road and a minor road.

136.2(1) and 136.2(2) No change.

136.2(3) Procedures.

a. Application shall be made to the appropriate district engineer on Form 810025, “Application and Agreement for Use of Highway Right-of-Way for Utilities Accommodation.” Form 810025 is available on the department’s website at www.iowadot.us. The application shall indicate the type of luminaire and intensity of illumination proposed. A sketch shall accompany the application showing the location of the proposed luminaire and pole and the mounting height of the luminaire.

b. and c. No change.

This rule is intended to implement Iowa Code sections ~~319.1, 319.12, 319.14~~ 306.4(1), 318.1, 318.2, 318.4, 318.5, 318.8, 318.9 and 318.12.

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 3. Amend rule 761—136.6(306) as follows:

761—136.6(306,318) Warrants and design requirements for lighting.

136.6(1) No change.

136.6(2) Design requirements. The design of lighting installations shall comply with departmental specifications and standard road plans for highway lighting as they exist at the time of installation of the lighting. The departmental specifications and standard road plans can be found through the department's electronic reference library on the department's website.

This rule is intended to implement Iowa Code ~~subsections~~ sections 306.4(1), 318.1, 318.2, 318.4, 318.8 and ~~669.14(8)~~ 318.9.

ARC 5340C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to the International Registration Plan for fleet vehicles and providing an opportunity for public comment

The Department of Transportation hereby proposes to amend Chapter 500, "Interstate Registration and Operation of Vehicles," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12, 326.15, 326.19A and 326.33.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 326.

Purpose and Summary

This proposed rule making aligns with existing legal authority and Department practice and relates to the administration of the International Registration Plan (IRP) for fleet vehicles operated within the states of the United States and the provinces of Canada. Chapter 500 and Iowa Code chapter 326 outline the specific requirements and procedures for registration under the IRP process. A description of the specific, proposed amendments is provided below:

Terminology updates. Several updates are proposed to terminology used throughout the chapter and within the definitions rule. The term "apportioned registration" will replace the term "prorate registration" throughout the chapter as that is the current terminology used in Iowa Code chapter 326 and the IRP. Rules that accommodate a set month renewal deadline are revised to incorporate implementation of a staggered registration process in which fleet registration renewals are staggered throughout the year rather than all expiring at the same time. Several current definitions are merely duplicative of the definitions already included in Iowa Code chapter 326; therefore, those definitions are removed, and definitions for "distance schedule," "vehicle schedule," "IRP," "qualified fleet owner," "self-certification of IRP credential destruction," and "temporary evidence of apportioned registration" are added or amended.

IRP renewals. Several rules related to the IRP registration renewal process are updated to provide flexibility in the renewal process, including accommodating electronic notification and simplified submission methods for required documentation, as well as clarifying the process for adding or deleting a vehicle from the fleet, both at the time of registration renewal and during nonrenewal periods.

Fees and refunds. The rules addressing fees and refunds are updated to align with the Iowa Code, the IRP requirements and current Department practice. Specifically, the late filing penalty fee rule specifies the approved payment methods and deadlines for payment as well as the process for sending

TRANSPORTATION DEPARTMENT[761](cont'd)

a delinquency notice for invoices that are 30 days overdue as required by Iowa Code section 326.10A. The rule addressing the mailing fee for a replacement cab card or plate is revised to align with current Department practice that a mailing fee applies when the Department issues a replacement cab card or plate. A motor carrier does have the option to print its own replacement cab card, in which case the fee would not apply. The rules governing IRP refunds are amended to clarify that plates and cab cards must be returned to the Department if the carrier is seeking a refund of IRP registration. These rules only apply to a refund of Iowa's portion of the IRP fees, as the Department has the authority under the IRP only to refund Iowa fees.

IRP credentials. IRP credentials include vehicle plates, cab cards and validation stickers that are evidence of a vehicle's compliance with IRP requirements. Several updates are made to the rules addressing IRP credentials, including striking outdated language referring to a nonexpiring plate and providing flexibility by not requiring the IRP credentials to be turned in if a vehicle is being deleted at the time of renewal. This is because deletion at the time of renewal will not affect the fees the Department collects, and the Department has the authority to assess fees if it is discovered a vehicle was operating under deleted credentials. The current rule relating to a carrier's self-certification of destruction of IRP credentials remains unchanged but is renumbered.

IRP records. The rules related to record retention are updated to comply with the IRP, including requiring record retention for the current registration year and the three preceding registration years; requiring a motor carrier to make records available for audit upon request; setting standards for records maintained by the motor carrier to allow the Department to verify IRP requirements; replacing outdated terminology referring to source records with current terminology referring to summaries, which are documents required to be maintained under the IRP to verify distances traveled; and removing a subrule relating to reaudit and assessment as that subrule was inconsistent with IRP requirements. The proposed amendments also align with the current Department process of obtaining trip permits through the Department's website, by mail or in person, and they remove an outdated provision indicating that a truck permit could be obtained at a truck stop as that is no longer an option. Finally, the rule promoting electronic maintenance of required IRP forms and records is amended to clarify that the federal heavy use tax form is maintained in accordance with Federal Highway Administration and Internal Revenue Service requirements and to remove the requirement to collect and submit Federal Highway Administration Form MCS-150. Because Form MCS-150 is already required to be filed with the federal government, the Department no longer needs to collect the form or forward it to the federal government.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 19, 2021. Comments should be directed to:

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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

If requested, a public hearing to hear oral presentations will be held on January 21, 2021, via conference call from 10 to 11 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on January 19, 2021, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 761—500.1(326) as follows:

761—500.1(326) Definitions. The definitions in Iowa Code ~~section~~ sections 326.2 and 326.3 apply to this chapter. In addition:

~~“Cab card” means a registration receipt that describes the vehicle and reflects the weight in each jurisdiction in which a vehicle is registered for operation.~~

~~“Credential” means a plate, validation sticker, cab card or temporary authority.~~

~~“International Registration Plan (IRP)” means a vehicle prorated registration reciprocity agreement among jurisdictions.~~

~~“Power unit” for registration purposes means a bus, truck, truck tractor, road tractor or tractor.~~

~~“Distance schedule” means the department form used to report fleet distance.~~

~~“IRP” means the International Registration Plan as defined in Iowa Code section 326.2.~~

~~“Qualified fleet owner registrant” means a motor carrier who has received written approval by the department to self-certify IRP credential destruction.~~

~~1. The motor carrier must meet the following requirements to receive department approval:~~

~~● A minimum of five years' experience with IRP registration in any jurisdiction;~~

~~● A satisfactory IRP payment history. A satisfactory payment history includes, but is not limited to, no suspension of IRP registration in the last five years due to late payment or returned check because of insufficient funds; and~~

~~● A satisfactory rating from the U.S. Department of Transportation in the previous five years.~~

~~2. A motor carrier subject to a federal out-of-service order in the current year or any of the four prior years shall not be eligible to self-certify IRP credential destruction.~~

~~“Registrant” means a person, firm or corporation in whose name or names a vehicle is properly registered.~~

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~~“Registration year” means the period January 1 through December 31 for vehicles registered under the International Registration Plan.~~

~~“Self-certification of IRP credential destruction” means a signed statement that is completed by a qualified fleet owner registrant certifying all the date the IRP credentials have been destroyed.~~

~~“Temporary authority evidence of apportioned registration” means a document issued by the department that allows describes the vehicle to be operated until a plate and cab card are issued. “Temporary authority” describes the vehicle and lists the weight for each jurisdiction in which the vehicle is registered for operation and lists the weight for each jurisdiction in which the vehicle is registered for operation and allows the vehicle to be operated.~~

~~“Vehicle schedule” means the department form used to report vehicle registration information.~~

~~This rule is intended to implement Iowa Code sections 326.2, 326.3, 326.15 and 326.33 and 326.15 as amended by 2004 Iowa Acts, chapter 1013, section 32.~~

ITEM 2. Amend rule 761—500.2(17A,326) as follows:

761—500.2(17A,326) General information.

500.2(1) Information and location. Applications, forms and information on interstate registration and operation of vehicles are available on the department’s website at www.iowadot.gov, by mail from the Office of Vehicle and Motor Carrier Services Bureau, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3268; ~~or~~ by facsimile at (515)237-3225; or by email at omcs@iowadot.us.

500.2(2) Method of operation. The operations of the department’s motor vehicle division relating to reciprocity and ~~prorate~~ apportioned registration shall be conducted in accordance with the ~~International Registration Plan~~ IRP and the ~~Code of Iowa~~ Iowa Code chapters 321 and 326.

500.2(3) Organizational data. The ~~office of~~ vehicle and motor carrier services bureau of the motor vehicle division is authorized pursuant to Iowa Code chapter 326 to:

~~a. Enter into reciprocity agreements with other jurisdictions. These agreements exempt nonresidents from the registration and registration fee requirements of Iowa Code chapter 321.~~

~~b. a. Enter into reciprocity prorate apportioned registration agreements with other jurisdictions. The department joined the International Registration Plan (IRP) is a member of the IRP. Such plan The IRP and any revisions thereto are hereby incorporated into this chapter. A copy of the agreement may be obtained by contacting the office of vehicle and motor carrier services bureau or at www.irponline.org. Under this agreement, the office of vehicle and motor carrier services bureau shall do all of the following:~~

~~(1) Compute and collect registration apportionable fees due this state under prorate apportioned registration agreements; and~~

~~(2) Issue registration plates, validation stickers, cab cards, temporary authority evidence of apportioned registration, and trip permits to qualified registrants.~~

~~(3) Enter into reciprocity agreements with other jurisdictions. These agreements exempt nonresidents from the registration and registration fee requirements of Iowa Code chapter 321.~~

~~This rule is intended to implement Iowa Code sections 17A.3, 326.5 and 326.6.~~

ITEM 3. Amend rule 761—500.4(326) as follows:

761—500.4(326) Renewal for IRP registration. ~~Renewal forms for the coming year are prepared automatically and distributed in November to all registrants who maintained an active IRP fleet with Iowa during that year. If the registrant does not receive a renewal application by December 1, the registrant is responsible for informing the office of motor carrier services and for making the necessary arrangements for renewal of the registration. Renewal applications should be submitted to the office of motor carrier services no later than January 1 to ensure adequate time for processing. A renewal is considered timely filed when it is received by the office of motor carrier services or postmarked on or before January 31 reminder notices are sent electronically or by mail at least 60 days prior to the registration expiration date to all registrants who maintained an active IRP fleet with Iowa during that year. A registrant may request a renewal reminder notice to be sent by mail. The renewal is made~~

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available online at least 60 days prior to the registration expiration date and can be accessed on the department's website.

500.4(1) The renewal must include:

a. A completed and signed mileage distance schedule and vehicle schedule(s). The schedules can be filed and signed either electronically or on paper.

b. An updated Federal Highway Administration motor carrier identification information report (MCS 150).

e. b. Necessary title Title documentation, if necessary.

d. A schedule of heavy highway vehicles (Form 2290).

c. One of the following:

(1) Receipted federal heavy vehicle use tax (Form 2290 Schedule 1) for vehicles with a taxable gross weight of 55,000 pounds or more.

(2) A copy of Form 2290 Schedule 1 and sufficient documentation of payment of the tax due at the time Form 2290 was filed. The documentation can include, but is not limited to, a photocopy of both sides of a canceled check, a bank statement indicating the amount of tax paid and electronic acknowledgment indicating a payment of tax, and an Internal Revenue Service printout of the taxpayer's account showing the amount of tax paid.

500.4(2) Additional renewal procedures.

a. Units being removed from the fleet shall be deleted on the renewal vehicle schedule and the plates, cab cards and stickers must be returned. In lieu of returning the plates, cab cards and stickers, a qualified fleet owner may submit a self-certification of IRP credential destruction to the office of motor carrier services on or before December 31. Registration renewal fees for deleted units shall be assessed unless the self-certification of IRP credential destruction or the plates, cab cards and stickers are received by the office of motor carrier services or postmarked on or before December 31. Vehicles may be deleted from the fleet at the time of renewal. Operating a vehicle with credentials marked as deleted shall result in the registrant being responsible for any fees assessed including any applicable penalty. Operating a vehicle with credentials that were self-certified as destroyed shall result in suspension of the self-certification privilege.

b. Units being stored shall be marked "stored" on the renewal vehicle schedule and the plates, cab cards and validation stickers must be returned in accordance with rule 761—500.5(321).

c. Vehicles may be added at the time of renewal. Upon payment of required fees, an applicant must apply for a temporary evidence of apportioned registration to be issued to operate a vehicle in accordance with the IRP. The department may extend the temporary evidence of apportioned registration if there are extenuating circumstances beyond the applicant's control.

d. When the registrant is seeking a refund in accordance with Iowa Code section 326.15 for vehicles deleted at the time of renewal, the annual and permanent registration plates and validation stickers must be returned to the vehicle and motor carrier services bureau.

This rule is intended to implement Iowa Code sections 326.6, 326.11, 326.12, 326.14 and 326.15 as amended by 2004 Iowa Acts, chapter 1013, section 32.

ITEM 4. Amend rule 761—500.5(321) as follows:

761—500.5(321) Deadline for placing a vehicle in storage. The registrant of a currently registered vehicle may at any time request that a vehicle be put into storage. The registrant must complete a vehicle schedule and return it with the plate, cab card and validation sticker to the ~~office of vehicle and~~ motor carrier services bureau. The vehicle schedule, plate, cab card and sticker must be received or postmarked on or before ~~January 31~~ the registration expiration date to stop the registration fee from being assessed for the renewal year. The ~~office of vehicle and~~ motor carrier services bureau shall destroy the plate and return the cab card to the registrant with the word "stored" stamped on it. Placing the vehicle in storage stops penalties on registration fees. When the vehicle is taken out of storage, the vehicle shall be assessed for the current annual registration fee.

This rule is intended to implement Iowa Code sections 321.126 and 321.134.

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ITEM 5. Amend rule 761—500.6(321,326) as follows:

~~761—500.6(321,326) **Penalty for late filing of renewal Payment, delinquency and suspension.** Renewals postmarked or received in the office of motor carrier services after January 31 are filed late and a 5 percent penalty shall be assessed. An additional 5 percent penalty shall be assessed on the first of each month thereafter until the renewal is filed. The penalty is calculated based on the following:~~

~~500.6(1) If the renewal is filed on or before May 19, the penalty shall be calculated on all trailer fees for the current year, on the first half of the Iowa power unit registration fees (both permanent and nonpermanent plated vehicles), and all registration fees due the other jurisdictions. Payment shall be made payable to the Iowa Department of Transportation by cash, check, credit card, or any other means offered by the department. Payment shall be due 30 calendar days from the invoice date. However, renewal invoices shall be due 30 calendar days from the invoice date or by the last day of the registration expiration month, whichever is later.~~

~~500.6(2) If the renewal is filed on or after May 20, the penalty shall be calculated on all registration fees due all jurisdictions for the current year only. Invoices not paid by the due date shall be assessed a late payment penalty as provided in Iowa Code sections 326.14 and 326.16. The same penalty amount will be assessed the first of each month thereafter until the total invoice and all penalties are paid in full.~~

~~500.6(3) A delinquency notice shall be sent on invoices 30 calendar days overdue. The department shall send a delinquency notice stating the IRP registration shall be suspended unless payment is received within 30 calendar days from the date of the delinquency notice. If payment is not received in a timely manner, a notice of suspension shall be sent to the registrant. When a registrant is under suspension, all of the registrant's Iowa-based IRP vehicles shall be suspended.~~

~~This rule is intended to implement Iowa Code sections 321.134 and 326.10A, 326.14 and 326.16.~~

ITEM 6. Amend rule 761—500.7(326) as follows:

~~761—500.7(326) **IRP payment methods Self-certification of IRP registration plate and validation sticker destruction.** A registrant with a good Iowa payment history may pay by cash, check, wire transfer or any other means offered by the department. Payment should be made payable to the Iowa Department of Transportation. All other registrants must submit fees by guaranteed funds. Examples of guaranteed funds are: money order, cashier's check, certified check or cash.~~

~~500.7(1) In order to request a refund for unused registration fees, unless the registrant qualifies to self-certify destruction under this rule, plates and validation stickers must be returned to the department when a vehicle is deleted from the fleet. A registrant must meet all of the following requirements to qualify for department approval to self-certify destruction of IRP credentials:~~

~~a. A minimum of five years' experience with IRP registration.~~

~~b. A satisfactory IRP payment history. A satisfactory payment history includes, but is not limited to, no suspension of IRP registration in the last five years due to late payment or returned check because of insufficient funds.~~

~~c. A satisfactory rating from the U.S. Department of Transportation in the previous five years.~~

~~500.7(2) A motor carrier subject to a federal out-of-service order in the current year or any of the four prior years shall not be eligible to self-certify IRP credential destruction.~~

~~This rule is intended to implement Iowa Code section 326.10A 326.15.~~

ITEM 7. Amend rule 761—500.8(326) as follows:

~~761—500.8(326) **IRP plate credentials.** Upon payment of appropriate fees and submission of all required documentation, the office of vehicle and motor carrier services bureau shall issue one IRP nonexpiring plate for each power unit to be mounted on the front of the power unit, and one nonexpiring trailer plate to be mounted on the rear of the trailer, and one cab card for each power unit. The cab card may be in either a physical or electronic format.~~

~~This rule is intended to implement Iowa Code sections section 326.14 and 326.17.~~

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ITEM 8. Amend rule 761—500.9(326) as follows:

761—500.9(326) Fleet Nonrenewal vehicle additions and temporary authority. A registrant may ~~submit~~ add a vehicle schedule to ~~change~~ the fleet operations at any time after the commencement of the registration year. ~~A~~ Upon payment of required fees, temporary authority evidence of apportioned registration may be issued to operate a the vehicle(s) for the period of time required to process the vehicle schedule. The temporary authority evidence of apportioned registration shall not exceed ~~60~~ 45 days. However, ~~at the discretion of the permitting authority,~~ the ~~60-day~~ department may extend the temporary authority ~~may be extended~~ evidence of apportioned registration for up to a total of 60 days if there are extenuating circumstances. Once temporary authority evidence of apportioned registration is ~~generated~~ issued and used, fees shall be due and the invoice may only be canceled if an error was made by the department or there were extenuating circumstances for which nonuse can be proven.

This rule is intended to implement Iowa Code section 326.11 ~~as amended by 2005 Iowa Acts, House File 216, section 41.~~

ITEM 9. Amend rule 761—500.10(326) as follows:

761—500.10(326) Fleet Nonrenewal vehicle deletions. A registrant may ~~remove~~ delete vehicles from the fleet at any time after the commencement of the registration year ~~or from the second half invoice.~~ Vehicles shall be deleted on the vehicle schedule, and the ~~The~~ plates, cab cards and validation stickers must be returned to the ~~office of vehicle and~~ motor carrier services bureau at the time of deletion. In lieu of returning the plates, cab cards and validation stickers, a qualified fleet owner registrant under rule 761—500.7(326) may submit a self-certification of IRP credential destruction on or before the vehicle(s) deletion date to the ~~office of vehicle and~~ motor carrier services bureau. ~~Second-half fees for deleted vehicles shall be assessed unless the self-certification of IRP credential destruction or the plates, cab cards and stickers are received by the office of motor carrier services or postmarked on or before June 30.~~ Operating a vehicle with credentials that were self-certified as destroyed shall result in suspension of the self-certification privilege, and the registrant shall be responsible for any additional fees that would have been due beyond the stated destruction date.

This rule is intended to implement Iowa Code sections 326.12 and 326.15 ~~as amended by 2004 Iowa Acts, chapter 1013, section 32.~~

ITEM 10. Amend rule 761—500.11(326) as follows:

761—500.11(326) Voluntary cancellation of registration. A registrant may cancel an application for IRP registration (~~the IRP vehicle schedule~~) if the registrant notifies the ~~office of vehicle and~~ motor carrier services bureau within 15 days of the invoice date. The notice shall state the reason for cancellation, the licensing status and ownership and be signed by the registrant or its representative. If notice is not received within 15 days or, if a temporary ~~permit~~ evidence of apportioned registration was issued in accordance with 761—500.9(326), all registration fees must be paid in full.

This rule is intended to implement Iowa Code sections 326.6 and 326.11.

ITEM 11. Amend rule 761—500.12(326) as follows:

761—500.12(326) Policy on registration credit. If a vehicle is deleted from the IRP fleet and replaced with another vehicle, registration credit may be applied to IRP fees due on the replacement vehicle. The vehicle schedule identifying the added and deleted vehicles must be submitted to the ~~office of vehicle and~~ motor carrier services bureau. The deletion must take place on or before the effective date of the replacement unit's vehicle's registration fees are required to be effective by law. ~~In accordance with Iowa Code section 326.12, credit shall not be allowed if the registrant is filing late.~~ Allowance for credit of deleted vehicles shall be subject to the conditions set forth in Iowa Code section 326.12.

This rule is intended to implement Iowa Code section 326.12.

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ITEM 12. Amend rule 761—500.13(326) as follows:

761—500.13(326) Penalty for late filing of vehicle schedule.

500.13(1) ~~A~~ As provided in Iowa Code sections 326.14 and 326.16, a late filing penalty of 5 percent shall be assessed to the vehicle if a vehicle schedule is not filed within 30 days of:

- a. The purchase of a new or used vehicle;
- b. ~~A vehicle's being brought into Iowa from out of state to be registered; or~~ The date a vehicle is brought across state borders into Iowa to be registered; or
- c. ~~A vehicle's vehicle~~ being first operated with the exemption allowed under Iowa Code section 321.20A.

500.13(2) ~~The 5 percent penalty is calculated based on the following:~~

- a. ~~If the vehicle schedule is filed on or before May 19, the penalty shall be calculated on all trailer fees for the current year, on the first half of the Iowa power unit registration fees (both permanent and nonpermanent plated vehicles) and all registration fees due the other jurisdictions.~~
- b. ~~If the vehicle schedule is filed on or after May 20, the penalty shall be calculated on all registration fees due all jurisdictions for the current year only.~~

~~**500.13(3)**~~ **500.13(2)** An additional ~~5 percent~~ penalty shall be assessed on the first of each month thereafter until the vehicle schedule is filed.

~~**500.13(4)**~~ **500.13(3)** The department may collect intrastate registration fees and penalties when registering a delinquent vehicle to bring the vehicle fees current before allowing the IRP registration of the vehicle.

This rule is intended to implement Iowa Code section ~~326.11~~ sections 321.20A, 326.11, 326.14 and 326.16.

ITEM 13. Rescind and reserve rules **761—500.14(326)** to **761—500.16(321,326)**.

ITEM 14. Amend rule 761—500.17(326) as follows:

761—500.17(326) Duplicate credentials. The fees for duplicate credentials are as follows:

500.17(1) A replacement cab card is \$3.

500.17(2) A replacement plate including the cab card is \$8. ~~If applicable, a mailing fee will also be assessed.~~

500.17(3) ~~A validation sticker replacement including the cab card is \$3.50~~ If applicable, a mailing fee will also be assessed based on the number of plates or cab cards being issued.

This rule is intended to implement Iowa Code section 326.22.

ITEM 15. Rescind and reserve rules **761—500.18(326)** and **761—500.19(326)**.

ITEM 16. Amend rule 761—500.20(326) as follows:

761—500.20(326) Making claim for refund. A refund of Iowa fees previously paid for the registration of vehicles may be made in accordance with Iowa Code sections 321.126, 321.127, ~~321.173~~ 321.129 and 326.15 ~~as amended by 2004 Iowa Acts, chapter 1013, section 32.~~ A claim for refund ~~on an IRP registered vehicle(s) form~~ may be obtained from the office of vehicle and motor carrier services bureau. In lieu of returning the plates, a qualified ~~fleet owner~~ registrant may submit a self-certification of IRP credential destruction on or before the vehicle's deletion date to the office of vehicle and motor carrier services bureau.

This rule is intended to implement Iowa Code sections 321.126, 321.127, 321.129 and 326.15 ~~as amended by 2004 Iowa Acts, chapter 1013, section 32.~~

ITEM 17. Rescind and reserve rule **761—500.21(326)**.

ITEM 18. Amend rule 761—500.22(326) as follows:

761—500.22(326) Registration of vehicles with non-Iowa titles. Registrants applying for registration for non-Iowa titled vehicles shall submit to the office of vehicle and motor carrier services bureau with

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the application or payment as specified in rule 761—500.7(326) either a ~~photocopy~~ copy of the non-Iowa title or a copy of the title application if the title has not been issued. If a jurisdiction does not issue titles, a ~~photocopy~~ copy of the bill of sale or a copy of the Canadian registration shall accompany the application or payment.

This rule is intended to implement Iowa Code section ~~326.45~~ 326.11.

ITEM 19. Amend rule 761—500.23(326) as follows:

761—500.23(326) Record retention.

500.23(1) *Record retention requirement and penalty.* Iowa IRP registrants shall preserve the records upon which their registration is based as required by the IRP and Iowa Code section ~~326.19~~ for the current registration year and the three preceding registration years. On request, the registrant shall make such records available for audit. The department may assess a penalty upon registrants who have failed to maintain proper records.

500.23(2) *Mileage Adequacy of records.* ~~Mileage~~ The records shall be preserved for the current registration year and the three preceding registration years. Mileage summaries must be supported by individual vehicle mileage records to provide an auditable system. maintained by a registrant shall be adequate to enable the department to verify the distances reported in the registrant's application for apportioned registration and to evaluate the accuracy of the registrant's distance accounting system. The records may be produced through any means and retained in any format or medium available to the registrant and accessible by the department.

a. The following records produced by a means other than a vehicle-tracking system shall be considered adequate:

- (1) The beginning and ending dates of the trip to which the records pertain.
- (2) The origin and destination of the trip.
- (3) The route of travel.
- (4) The beginning and ending reading from the odometer, hubodometer, engine control module (ECM), or any similar device for the trip.
- (5) The total distance of the trip.
- (6) The distance traveled in each jurisdiction.
- (7) The vehicle identification number or vehicle unit number.

b. The following records produced wholly or partly by a vehicle-tracking system, including a system based on a global positioning system (GPS) shall be considered adequate under this subrule:

- (1) The original GPS or other location data for the vehicle to which the records pertain.
- (2) The date and time of each GPS reading or other system reading.
- (3) The location of each GPS reading or other system reading.
- (4) The beginning and ending reading from the odometer, hubodometer, engine control module (ECM), or any similar device for the period to which the records pertain.
- (5) The calculated distance between each GPS reading or other system reading.
- (6) The route of the vehicle's travel.
- (7) The total distance traveled by the vehicle.
- (8) The distance traveled in each jurisdiction.
- (9) The vehicle identification number or vehicle unit number.

500.23(3) *Source documents Summaries.* ~~Individual vehicle mileage records as specified in the IRP audit guidelines shall be acceptable to verify fleet mileage. The individual vehicle mileage record must include all of the following~~ following summaries shall be maintained:

a. Date of trip (starting and ending dates); A summary of the fleet's operations of each month, which includes both the full distance traveled by each apportioned vehicle in the fleet during the calendar month and the distance traveled in the month by each apportioned vehicle in each jurisdiction.

b. Trip origin and destination; A summary of the fleet's operations for each calendar quarter, which includes both the full distance traveled by vehicles in the fleet during the calendar quarter and the distance traveled in each jurisdiction by the vehicles in the fleet during the calendar quarter.

c. Routes of travel;

TRANSPORTATION DEPARTMENT[761](cont'd)

- d.*— Total trip miles;
- e.*— Mileage by jurisdiction; and
- f.*— Unit number or vehicle identification number.

Odometer readings may be substituted for routes of travel if the substitution is approved by the department.

~~500.23(4) Reaudit and assessment.~~ If an audit determines that a registrant has not maintained adequate mileage records, the following procedures shall apply:

- a.*— The department shall send an audit report to the registrant, detailing the areas of noncompliance.
- b.*— After a three-month grace period, the department shall reaudit the registrant's records to monitor improvement. If the registrant's record-keeping system is not in compliance at the time of the reaudit, the department shall assess an audit penalty. The penalty shall equal 20 percent of the registrant's projected full Iowa fees for the registration year audited.

c.— After an initial billing, the registrant shall be subject to periodic reaudits, and penalties may be assessed for up to three full years of subsequent noncompliance, pursuant to the IRP agreement.

This rule is intended to implement Iowa Code sections ~~326.19~~ and section 326.19A.

ITEM 20. Amend rule 761—500.24(326) as follows:

761—500.24(326) Trip permits. The registrants may meet the registration requirements of Iowa Code chapter 326 by operating under a trip permit. However, moves that are intrastate or exceed legal dimensions or weight and operate under permit as specified in Iowa Code chapter 321E shall not be allowed. ~~Trip permits may be obtained as follows:~~

~~500.24(1) The registrant, permit service or process agent may request trip permits by facsimile, telephone, the Internet or mail. Trip permits may be obtained through the department's website, by mail, or in person from the office of vehicle and motor carrier services bureau. Such requests shall include the appropriate permit fee remittance. Registrants purchasing trip permits in advance of use may not return unused permits for a refund.~~

~~500.24(2) Permits may be purchased directly from truck stops in several locations across the state that have executed a "Trip Permit Agreement." The registrant may obtain a list of participating truck stops by contacting the office of motor carrier services. Registrants purchasing trip permits in advance of use may not return unused permits for a refund.~~

This rule is intended to implement Iowa Code sections 326.23 and 326.46.

ITEM 21. Amend rule 761—500.25(326) as follows:

761—500.25(326) Electronic information. To the greatest extent possible, the ~~office of vehicle and motor carrier services bureau~~ shall maintain in electronic form all records required under this chapter. The retention period for electronic records must follow the guidelines of the IRP.

~~500.25(1) IRP vehicle transaction.~~ The ~~office of vehicle and motor carrier services bureau~~ shall destroy paper copies of IRP vehicle transaction requests 90 days after the IRP invoice is generated.

~~500.25(2) Heavy highway vehicle schedule Federal heavy use tax (Form 2290 Schedule 1).~~ The ~~office of vehicle and motor carrier services bureau~~ shall ~~destroy paper copies of the heavy highway vehicle schedule once the electronic record is updated~~ maintain Form 2290 Schedule 1 in accordance with 23 CFR Section 669.9.

~~500.25(3) MCS 150.~~ The office of motor carrier services shall forward the updated Federal Highway Administration's motor carrier identification information (MCS 150) to the Federal Motor Carrier Safety Administration office after the update is marked on the electronic record. ~~The office of motor carrier services shall not retain paper copies of this form.~~

This rule is intended to implement Iowa Code section 326.33.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions Katie Averill, Superintendent of Banking Jeff Plagge, and Auditor of State Rob Sand has established today the following rates of interest for public obligations and special assessments. The usury rate for December is 2.75%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

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

New official state interest rates, effective December 9, 2020, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

| | |
|----------------------|--------------|
| 7-31 days | Minimum .05% |
| 32-89 days | Minimum .05% |
| 90-179 days | Minimum .05% |
| 180-364 days | Minimum .05% |
| One year to 397 days | Minimum .05% |
| More than 397 days | Minimum .05% |

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

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

USURY

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

USURY(cont'd)

| | |
|--|-------|
| January 1, 2020 — January 31, 2020 | 3.75% |
| February 1, 2020 — February 29, 2020 | 3.50% |
| March 1, 2020 — March 31, 2020 | 3.75% |
| April 1, 2020 — April 30, 2020 | 3.50% |
| May 1, 2020 — May 31, 2020 | 2.75% |
| June 1, 2020 — June 30, 2020 | 2.75% |
| July 1, 2020 — July 31, 2020 | 2.75% |
| August 1, 2020 — August 31, 2020 | 2.75% |
| September 1, 2020 — September 30, 2020 | 2.50% |
| October 1, 2020 — October 31, 2020 | 2.75% |
| November 1, 2020 — November 30, 2020 | 2.75% |
| December 1, 2020 — December 31, 2020 | 2.75% |
| January 1, 2021 — January 31, 2021 | 2.75% |

ARC 5366C**DENTAL BOARD[650]****Adopted and Filed****Rule making related to clinical examinations on manikins**

The Dental Board hereby amends Chapter 11, “Licensure to Practice Dentistry or Dental Hygiene,” and Chapter 12, “Dental and Dental Hygiene Examinations,” 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 sections 147.3, 147.29, 147.34 and 147.36 and chapter 153.

Purpose and Summary

These amendments allow applicants for a dental license to complete clinical examinations on manikins for the purposes of licensure in Iowa. These amendments also update the language regarding successful passage of examinations for dental and dental hygiene applicants.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 4, 2020, as **ARC 5264C**. The Board accepted written and oral comments through November 30, 2020. The Board received two written comments. One comment was strongly in support of the rule making; the other commenter was opposed and believed that the current standards should be maintained.

One change from the Notice has been made. The rule making was updated to require successful completion of the non-patient periodontal section of the Commission on Dental Competency Assessments (CDCA) examination if the CDCA manikin examination is attempted.

Adoption of Rule Making

This rule making was adopted by the Board on December 9, 2020.

Fiscal Impact

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

Jobs Impact

After analysis and review of this rule making, there is no impact on jobs since the amendments apply to requirements for licensure and would provide additional opportunities for meeting those 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 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

DENTAL BOARD[650](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 February 3, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 11.2(2) as follows:

11.2(2) Applications for licensure must be filed with the board along with:

a. and b. No change.

c. *Documentation of passage of national dental examination.* Evidence of ~~attaining a grade of at least 75 percent on~~ successful passage of the examination administered by the Joint Commission on National Dental Examinations.

d. *Documentation of passage of a clinical examination.* Successful passage of a board-approved clinical examination within the previous five-year period.

~~(1) Successful passage of a board-approved clinical examination within the previous five-year period with a grade of at least 75 percent.~~

~~(2) (1)~~ (1) The following patient-based regional clinical examinations are approved by the board for purposes of licensure by examination: the Central Regional Dental Testing Service, Inc. examination as administered by the Central Regional Dental Testing Service, Inc. (CRDTS), the Western Regional Examining Board examination as administered by the Western Regional Examining Board (WREB), the Southern Regional Testing Agency, Inc. examination as administered by the Southern Regional Testing Agency, Inc. (SRTA), and the American Board of Dental Examiners, Inc. examination as administered by the Commission on Dental Competency Assessments (CDCA) and the Council of Interstate Testing Agencies, Inc. (CITA).

(2) The following manikin-based regional clinical examinations are approved by the board for purposes of licensure by examination: the Central Regional Dental Testing Service, Inc. examination as administered by the Central Regional Dental Testing Service, Inc. (CRDTS), and the American Board of Dental Examiners, Inc. examination as administered by the Commission on Dental Competency Assessments (CDCA).

(3) Beginning January 1, 2018, the 2014 California portfolio examination is approved by the board for the purposes of licensure by examination. To be eligible for licensure on the basis of portfolio examination, an applicant must be a student at the University of Iowa College of Dentistry or have graduated from the University of Iowa College of Dentistry within one year of the date of application.

e. to i. No change.

ITEM 2. Amend subrule 11.3(2) as follows:

11.3(2) Applications must be filed with the board along with:

a. No change.

b. Evidence of ~~attaining a grade of at least 75 percent on the examination~~ successful passage of the Joint Commission on National Dental Examinations ~~or evidence of attaining a grade of at least 75 percent on a written examination during the last ten years that is comparable to the examination given by the Joint Commission on National Dental Examinations.~~ Any dentist who has lawfully practiced dentistry in another state or territory for five years may be exempted from presenting this evidence.

c. and d. No change.

e. Evidence that the applicant has met at least one of the following:

(1) Has less than three consecutive years of practice immediately prior to the filing of the application and evidence of ~~attaining a grade of at least 75 percent on~~ successful passage of a board-approved clinical examination pursuant to subrule 11.2(2) within the previous five-year period. ~~The following regional examinations are approved by the board for purposes of licensure by credentials: the Central Regional Dental Testing Service, Inc. examination as administered by the Central Regional Dental Testing Service, Inc. (CRDTS), the Western Regional Examining Board examination as~~

DENTAL BOARD[650](cont'd)

~~administered by the Western Regional Examining Board (WREB), the Southern Regional Testing Agency, Inc. examination as administered by the Southern Regional Testing Agency, Inc. (SRTA), the American Board of Dental Examiners, Inc. examination as administered by the Commission on Dental Competency Assessments (CDCA) and the Council of Interstate Testing Agencies, Inc. (CITA), and the 2014 California portfolio examination; or~~

(2) Has for three consecutive years immediately prior to the filing of the application been in the lawful practice of dentistry in such other state, territory or district of the United States.

f. to k. No change.

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

11.5(2) Applications for licensure must be filed with the dental hygiene committee along with:

a. and b. No change.

c. *Documentation of passage of national dental hygiene examination.* Evidence of ~~attaining a grade of at least 75 percent on~~ successful passage of the examination administered by the Joint Commission on National Dental Examinations.

d. *Documentation of passage of a regional clinical examination.*

(1) Successful passage of a patient-based regional clinical examination within the previous five-year period ~~with a grade of at least 75 percent.~~

(2) The following regional examinations are approved by the board for purposes of licensure by examination: the Central Regional Dental Testing Service, Inc. examination as administered by the Central Regional Dental Testing Service, Inc. (CRDTS), the Western Regional Examining Board examination as administered by the Western Regional Examining Board (WREB), the Southern Regional Testing Agency, Inc. examination as administered by the Southern Regional Testing Agency, Inc. (SRTA), and the American Board of Dental Examiners, Inc. examination as administered by the Commission on Dental Competency Assessments (CDCA) and the Council of Interstate Testing Agencies, Inc. (CITA).

e. to i. No change.

ITEM 4. Amend subrule 11.6(2) as follows:

11.6(2) Applications must be filed with the dental hygiene committee along with:

a. Satisfactory evidence of graduation from an accredited school of dental hygiene approved by the dental hygiene committee.

b. Evidence of ~~attaining a grade of at least 75 percent on~~ successful passage of the examination of the Joint Commission on National Dental Examinations ~~or evidence of attaining a grade of at least 75 percent on a written examination that is comparable to the examination given by the Joint Commission on National Dental Examinations.~~ Any dental hygienist who has lawfully practiced dental hygiene in another state or territory for five or more years may be exempted from presenting this evidence.

c. and d. No change.

e. Evidence that the applicant has met at least one of the following:

(1) Has less than three consecutive years of practice immediately prior to the filing of the application and evidence of ~~attaining a grade of at least 75 percent on~~ successful passage of a regional clinical examination within the previous five-year period. The following regional examinations are approved by the board for purposes of licensure by examination: the Central Regional Dental Testing Service, Inc. examination as administered by the Central Regional Dental Testing Service, Inc. (CRDTS), the Western Regional Examining Board examination as administered by the Western Regional Examining Board (WREB), the Southern Regional Testing Agency, Inc. examination as administered by the Southern Regional Testing Agency, Inc. (SRTA), and the American Board of Dental Examiners, Inc. examination as administered by the Commission on Dental Competency Assessments (CDCA) and the Council of Interstate Testing Agencies, Inc. (CITA); or

(2) Has for three consecutive years immediately prior to the filing of the application been in the lawful practice of dental hygiene in such other state, territory or district of the United States.

f. to k. No change.

DENTAL BOARD[650](cont'd)

ITEM 5. Amend rule 650—11.7(147,153) as follows:

650—11.7(147,153) Dental hygiene application for local anesthesia permit. A licensed dental hygienist may administer local anesthesia provided the following requirements are met:

1. The dental hygienist holds a current local anesthesia permit issued by the board of dental examiners.

2. and 3. No change.

11.7(1) to 11.7(4) No change.

This rule is intended to implement Iowa Code sections 147.10 and 147.80 and chapter 153.

ITEM 6. Amend rule 650—12.1(147,153) as follows:

650—12.1(147,153) Clinical examination procedure for dentistry.

12.1(1) *Compliance with regional clinical examination testing requirements and procedures.* Examinees shall meet the requirements for testing and follow procedures established by each respective testing agency. Examinees must take all parts offered by the respective testing agency, including the CDCA periodontal scaling non-patient component.

12.1(2) *Scoring requirements.* The examinee must attain a grade of not less than 75 percent passing score on each clinical portion of the examination and on the written portion of the examination.

12.1(3) *Compliance with performance clinical operations requirements.* Each examinee shall be required to perform such clinical operations as may be required by each respective testing agency, for the purpose of sufficiently evaluating and testing the fitness of the examinee to practice dentistry.

ITEM 7. Amend rule 650—12.4(147,153) as follows:

650—12.4(147,153) Clinical examination procedure for dental hygiene.

12.4(1) *Compliance with regional clinical examination testing requirements and procedures.* Examinees shall meet the requirements for testing and follow the procedures established by each respective testing agency. Examinees must take all parts offered by the respective testing agency.

12.4(2) *Scoring requirements.* The examinee must attain a grade of not less than 75 percent passing score on each clinical portion of the examination and on the written portion of the examination.

12.4(3) *Practical demonstrations.* Each examinee shall be required to perform such practical demonstrations as may be required by each respective testing agency for the purpose of sufficiently evaluating and testing the fitness of the examinee to practice dental hygiene.

[Filed 12/9/20, effective 2/3/21]

[Published 12/30/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/20.

ARC 5361C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to mandatory child abuse and dependent adult abuse reporter training

The Human Services Department hereby amends Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," Chapter 108, "Licensing and Regulation of Child-Placing Agencies," Chapter 109, "Child Care Centers," Chapter 113, "Licensing and Regulation of Foster Family Homes," and Chapter 117, "Foster Parent Training," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 232.69.

HUMAN SERVICES DEPARTMENT[441](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 232.69.

Purpose and Summary

2019 Iowa Acts, House File 731, relating to mandatory child abuse and dependent adult abuse reporter training, was approved and signed into law by Governor Reynolds on May 8, 2019, stating mandatory reporter training must be completed every three years. Previously, training needed to be completed every five years. This amendment implements that change and makes other corresponding changes. It also updates terminology relating to intellectual disabilities.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 21, 2020, as **ARC 5230C**. 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 December 10, 2020.

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 March 1, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **77.37(15)“a”** as follows:

a. The following agencies may provide respite services:

- (1) No change.
- (2) Nursing facilities, intermediate care facilities for ~~the mentally retarded~~ persons with an intellectual disability, and hospitals enrolled as providers in the Iowa Medicaid program.
- (3) Residential care facilities for persons with ~~mental retardation~~ an intellectual disability licensed by the department of inspections and appeals.
- (4) to (9) No change.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 2. Amend paragraph **77.37(23)“b”** as follows:

b. Subject to the requirements of this rule, the following agencies may provide residential-based supported community living services:

(1) No change.

(2) Agencies licensed as residential facilities for ~~mentally retarded~~ children with an intellectual disability or brain injury under 441—Chapter 116.

(3) Other agencies providing residential-based supported community living services that meet the following conditions:

1. The agency must provide orientation training on the agency’s purpose, policies, and procedures within one month of hire or contracting for all employed and contracted treatment staff and must provide 24 hours of training during the first year of employment or contracting. The agency must also provide at least 12 hours of training per year after the first year of employment for all employed and contracted treatment staff. Annual training shall include, at a minimum, training on children’s ~~mental retardation~~ intellectual disabilities and developmental disabilities services and children’s mental health issues. Identification and reporting of child abuse shall be covered in training at least every ~~five~~ three years, in accordance with Iowa Code section 232.69.

2. to 5. No change.

ITEM 3. Amend paragraph **108.2(9)“f”** as follows:

f. The agency refuses to cooperate with child protective ~~investigations~~ assessments involving children placed by the agency.

ITEM 4. Amend subrule 108.6(3) as follows:

108.6(3) Staff training. An agency shall provide orientation training on the agency’s purpose, policies and procedures within one month of hire and 24 hours of training in the first year of employment for all employed and contracted casework staff. The 24 hours of training shall include: training on family foster care services, adoption services, supervised apartment living services, or children and families’ mental health topics, and 2 hours of training related to the identification and reporting of child abuse for all employed or contracted casework staff in accordance with Iowa Code section 232.69. An agency shall provide 12 hours of training per year after the first year of employment for all employed or contracted casework staff. The 12 hours of training shall include: training on family foster care services, adoption services, supervised apartment living services, or children and families’ mental health topics and child abuse training every ~~five~~ three years in accordance with Iowa Code section 232.69.

The training formats that shall qualify as training are as follows: in-service training, seminars, conferences, workshops, institutes, visiting other facilities, and meeting with consultants.

The training provided shall be documented. The documentation shall include the training topic, format, date and number of hours.

ITEM 5. Amend subrule 108.8(5) as follows:

108.8(5) Complaints. When an agency receives a complaint which may indicate possible violation of the foster care licensing rules, the agency shall, within five working days of receiving the complaint, either conduct an investigation to assess compliance with applicable rules or refer the complaint to the department for ~~investigation~~ assessment. If the agency conducts the investigation, the agency shall submit a written report of the investigation to the department within ten working days of receiving the complaint with a statement of rule violation and a recommendation regarding the license of the foster family home. The written report shall be filed in the foster parents’ file.

ITEM 6. Amend subrule 108.8(6) as follows:

108.8(6) Foster family training. The agency shall ensure that each foster home recommended for foster family license has complied with the training requirements in 441—113.8(237).

Within six months of licensure and every ~~five~~ three years thereafter, each foster parent shall obtain mandatory reporter training relating to identification and reporting of child abuse.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 7. Amend subparagraph **109.7(2)“a”(2)** as follows:

(2) Training received for cardiopulmonary resuscitation (CPR), first aid, mandatory reporting of child abuse, and universal precautions shall not count toward the ten contact hours. A provider shall not use a specific training or class to meet minimum continuing education requirements more than one time every ~~five~~ three years.

ITEM 8. Amend subparagraph **109.14(3)“b”(2)** as follows:

(2) Six hours' training in care of ill children, ~~and~~; two hours' training in child abuse identification and reporting, as required by Iowa Code section 232.69, within the first six months of employment and every ~~five~~ three years thereafter; and maintenance of a valid certificate indicating expiration date.

ITEM 9. Amend paragraph **113.8(1)“d”** as follows:

d. Mandatory reporter training on child abuse identification and reporting before initial licensure and every ~~five~~ three years thereafter as required by rule 441—112.10(232) and 441—subrule 117.8(3).

ITEM 10. Amend paragraph **117.2(3)“d”** as follows:

d. Child abuse law and child abuse ~~investigation~~ assessment procedures.

ITEM 11. Amend subrule 117.8(3) as follows:

117.8(3) Child abuse reporting. Each foster parent shall complete an approved mandatory child abuse reporter training every ~~five~~ three years after the foster parent's initial preservice mandatory child abuse reporter training relating to the identification of child abuse and the requirements and procedures for the reporting of child abuse pursuant to Iowa Code section 232.68.

a. *Training provider.* The foster parent shall be responsible for ~~obtaining~~ completing the required two-hour mandatory reporter training on child abuse identification and reporting ~~as approved by the Iowa department of public health~~ in accordance with Iowa Code section 232.69. A list of approved training opportunities is available on the Iowa department of public health Web site by searching “mandatory reporter training.” Foster parents are eligible to take the one-hour recertification mandatory reporter training on child abuse identification and reporting within the six months prior to the expiration of their previous certification if they have already completed the two-hour training at least once.

b. No change.

[Filed 12/10/20, effective 3/1/21]

[Published 12/30/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/20.

ARC 5364C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to prescription drug automatic refill program

The Human Services Department hereby amends Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” 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.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Purpose and Summary

This rule making establishes pharmacy policies and procedures for Medicaid coverage and reimbursement of prescription drug refills through an automatic refill program, rather than prohibiting such a program. This may improve medication adherence for chronic medical conditions. Some pharmacies may currently offer this type of program, and Medicaid proposes to standardize the requirements to ensure medical necessity and prevent waste. The United States Government Accountability Office (GAO) recommended in its July 2015 report, "Medicaid: Additional Reporting May Help CMS Oversee Prescription-Drug Fraud Controls," that Medicaid programs review pharmacy automatic refill programs and corresponding Medicaid policies as a potential concern for waste and unnecessary costs.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 21, 2020, as **ARC 5228C**. The Department received three comments from two respondents on the proposed amendment. The comments and corresponding responses from the Department are divided into three topic areas as follows:

A. Automatic prescription refill allowance. There were two comments in this topic area.

1. One respondent who operates retail drug stores, telepharmacies, and closed-door pharmacies expressed support for the Department's efforts to expand the use of automatic refill programs to Medicaid patients. The respondent is strongly in favor of the amendment to subparagraph 78.2(6)"b"(2), allowing Medicaid patients to participate in automatic refill programs.

2. One respondent expressed support for policies to help reduce waste, stockpiling, and potential abuse, indicating this could be minimized if patients received automatic refills from a physical location. The respondent stated that the touchpoint with the patient is an opportunity to promote proper adherence and medication use, and the risk of stockpiling or waste is greatly reduced.

Department response: The Department supports appropriate implementation of an automatic refill program by a pharmacy to improve medication compliance while controlling for waste and abuse. The allowance for this program is not limited to a physical location pharmacy. However, the oversight by the pharmacy for this program is the same for either a mail order or physical location pharmacy in regard to all consent documentations, including verification of continued medical necessity prior to dispensing, delivering or mailing to the member.

B. Medication synchronization. There was one comment in this topic area.

The respondent commented on the use of a medication synchronization program as part of the respondent's automatic refill program and indicated allowing Medicaid patients to enroll in medication synchronization programs improves medication compliance.

Department response: Medication synchronization services are not a currently covered policy under Iowa Medicaid, and this rule language related to automatic refill programs will not change that. The refill tolerance will be required to be met even with the allowance of an automatic refill program.

C. Documentation requirements. There was one comment in this topic area.

The respondent requested clarification on what would satisfy the requirements for documentation of consent to opt in or continue automatic refills. Examples noted how pharmacies currently capture similar requirements were signature capture, written record, or a checkbox on the pharmacy software for verbal authorization with a time/date stamp. The respondent requested broad enforcement of this requirement to ensure pharmacies have flexibility in documenting patient consent.

Department response: The Department updated the rule language to clarify that consent for automated refills should be in electronic or written form. The consent process must support all requirements as noted in the rules, including but not limited to the name of the member or representative consenting and the date of consent, as well as a record of selected prescriptions for automatic refill.

A change from the Notice was made to the last bulleted paragraph of 78.2(6)"b"(2)"2" to clarify how consent would be obtained.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on December 10, 2020.

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 March 1, 2021.

The following rule-making action is adopted:

Amend subparagraph **78.2(6)“b”(2)** as follows:

(2) Automatic refills.

~~1. Automatic refills are not allowed. A request specific to each medication is required.~~

~~2. All prescription refills shall be initiated by a request at the time of each fill by the prescriber, Medicaid member or person acting as an agent of the member, based on continued medical necessity.~~

1. Automatic refills are allowed. Participation in an automatic refill program is voluntary and opt-in only, on a drug-by-drug basis.

2. The program must have:

• Easy-to-locate contact information through telephone, the program's website, or both;

• Easy-to-understand patient materials on how to select or unselect drug(s) for inclusion and how to disenroll;

• Confirmation that the member wants to continue in the automatic refill program at least annually;

• Confirmation of continued medical necessity provided by the Medicaid member or person acting as an authorized representative of the member, before the member receives the medication at the pharmacy or before the medication is mailed or delivered to the member, without which confirmation the drug(s) must be credited back to the Medicaid program; and

• Records of all consents, which must be in electronic or written format and must be available for review by auditors.

[Filed 12/10/20, effective 3/1/21]

[Published 12/30/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/20.

ARC 5362C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rule making related to uniform prior authorization process**

The Human Services Department hereby amends Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” and Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” 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 and 2019 Iowa Acts, House File 766.

Purpose and Summary

2019 Iowa Acts, House File 766, required implementation of a uniform process to request medical prior authorization under the Medicaid program. As a result of implementing the uniform prior authorization process, there has been a change in forms and form numbers used to request a prior authorization. These amendments align the rules with the new forms and processing time frames. The rules are also revised to update outdated sections with current practices and processes.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 21, 2020, as **ARC 5229C**. 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 December 10, 2020.

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).

HUMAN SERVICES DEPARTMENT[441](cont'd)

Effective Date

This rule making will become effective on March 1, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **78.10(1)“c”** as follows:

c. A physician's (doctor of medicine, osteopathy, or podiatry), physician assistant's, or advanced registered nurse practitioner's prescription is required to establish medical necessity. The prescription shall state the member's name, diagnosis, prognosis, item(s) to be dispensed, quantity, and length of time the item is to be required and shall include the signature of the prescriber and the date of signature.

For items requiring prior authorization, a request shall include a physician's, physician assistant's, or advanced registered nurse practitioner's written order or prescription and sufficient medical documentation to permit an independent conclusion that the requirements for the equipment or device are met and the item is medically necessary and reasonable. A request for prior authorization is made on ~~Form 470-0829, Request for Prior Authorization~~ using Form 470-5595, Outpatient Prior Authorization Request. See rule 441—78.28(249A) for prior authorization requirements.

ITEM 2. Amend paragraph **78.10(2)“b”** as follows:

b. The types of durable medical equipment covered through the Medicaid program include, but are not limited to:

Automated medication dispenser. See 78.10(5)“d” for prior authorization requirements.

Bathtub/shower chair, bench. See 78.10(5)“g” and “j” for prior authorization requirements.

Commode, shower commode chair. See 78.10(5)“j” for prior authorization requirements.

Decubitus equipment.

Dialysis equipment.

Diaphragm (contraceptive device).

Enclosed bed. See 78.10(5)“a” for prior authorization requirements.

Enuresis alarm system (bed-wetting alarm device) for members five years of age or older.

Heat/cold application device.

Hospital bed and accessories.

Inhalation equipment. See 78.10(5)“c” for prior authorization requirements.

Insulin infusion pump. See 78.10(5)“b” and 78.10(5)“e” for prior authorization requirements.

Lymphedema pump.

Mobility device and accessories. See 78.10(5)“i” for prior authorization requirements.

Neuromuscular stimulator.

Oximeter.

Oxygen, subject to the limitations in 78.10(2)“a” and 78.10(2)“c.”

Patient lift. See 78.10(5)“h” for prior authorization requirements.

Phototherapy bilirubin light.

Protective helmet.

Seat lift chair.

Speech generating device. See 78.10(5)“f” for prior authorization requirements.

Traction equipment.

Ventilator.

ITEM 3. Rescind and reserve paragraph **78.10(5)“d.”**

ITEM 4. Amend paragraph **78.10(5)“e”** as follows:

e. ~~Diabetic equipment and supplies~~ DME rebate agreements. If the department has a current agreement for a rebate with at least one manufacturer of a particular category of diabetic equipment or supplies (by healthcare common procedure coding system (HCPCS) code), prior authorization is required for any equipment or supplies in that category produced by a manufacturer that does not have a current agreement to provide a rebate to the department (other than supplies for members receiving care in a nursing facility or an intermediate care facility for persons with an intellectual disability). Prior

HUMAN SERVICES DEPARTMENT[441](cont'd)

approval shall be granted when the member's medical condition necessitates use of equipment or supplies produced by a manufacturer that does not have a current rebate agreement with the department.

ITEM 5. Rescind and reserve paragraph **78.28(1)“b.”**

ITEM 6. Amend paragraph **78.28(1)“k”** as follows:

~~k. Diabetic equipment and supplies~~ DME rebate agreements. Payment will be approved pursuant to the criteria at 78.10(5)“e.”

ITEM 7. Amend paragraph **78.28(7)“b”** as follows:

~~b. Preprocedure review by the IFMC is required if ambulatory surgical centers are to be reimbursed for surgical procedures as set forth in subrule 78.1(19). Approval by the IFMC will be granted only if the procedures are determined to be necessary based on the condition of the patient and criteria established by the IFMC and the department. The criteria are available from IFMC, 6000 Westown Parkway, Suite 350E, West Des Moines, Iowa 50265-7771, or in local hospital utilization review offices.~~

ITEM 8. Amend subrule 78.28(12) as follows:

78.28(12) High-technology radiology procedures.

a. No change.

b. Notwithstanding paragraph 78.28(12)“a,” prior authorization is not required when any of the following applies:

(1) Radiology procedures are billed on a CMS 1500 claim for places of service “hospital inpatient” (POS 21) or “hospital emergency room” (POS 23), or on a UB04 claim with revenue code 45X;

(2) The member has Medicare coverage;

~~(3) The member received notice of retroactive Medicaid eligibility after receiving a radiology procedure at a time prior to the member's receipt of such notice (see paragraph 78.28(12)“e”); or~~

(4) (3) A radiology procedure is ordered or requested by the department of human services, a state district court, law enforcement, or other similar entity for the purposes of a child abuse/neglect investigation, as documented by the provider.

c. No change.

~~d. Required requests for prior approval of radiology procedures must be submitted through the online system operated by the department's contractor for prior approval of high-technology radiology procedures to the department of human services.~~

~~e. Services are billed for members with retroactive eligibility.~~

(1) When a member has received notice of retroactive Medicaid eligibility after receiving a radiology procedure for a date of service prior to the member's receipt of such notice and otherwise requiring prior approval pursuant to this rule, a retroactive authorization request must be submitted on Form 470-0829, Request for Prior Authorization 470-5595, Outpatient Prior Authorization Request, and approved before any claim for payment is submitted.

~~(2) Payment will be authorized only if the prior approval criteria were met and the service was provided to the member prior to the retroactive eligibility notification, as documented by the provider requesting retroactive authorization.~~

~~(3) Retroactive authorizations will not be granted when sought for reasons other than a member's retroactive Medicaid eligibility. Examples of such reasons include, but are not limited to, the following:~~

~~1. The provider was unaware of the high-technology radiology prior authorization requirement.~~

~~2. The provider was unaware that the member had current Medicaid eligibility or coverage.~~

~~3. The provider forgot to complete the required prior authorization process.~~

ITEM 9. Amend paragraph **79.8(1)“a”** as follows:

a. Providers may submit requests for prior authorization for any items or procedures, other than prescription drugs, by mail or by facsimile transmission (fax) using Form 470-0829, Request for Prior Authorization 470-5595, Outpatient Prior Authorization Request, or electronically using the Accredited Standards Committee (ASC) X12N 278 transaction, Health Care Services Request for Review and Response. Requests for prior authorization for drugs must be submitted on any Request for Prior

HUMAN SERVICES DEPARTMENT[441](cont'd)

Authorization form designated for the drug being requested in the preferred drug list published pursuant to Iowa Code chapter 249A.

ITEM 10. Amend subrule 79.8(3) as follows:

79.8(3) The provider shall receive a notice of approval or denial for all requests.

a. In the case of prescription drugs, notices of approval or denial will be faxed to the prescriber and pharmacy.

b. Decisions regarding approval or denial of prescription drugs will be made within 24 hours from the receipt of the prior authorization request. In cases where the request is received during nonworking hours, the time limit will be construed to start with the first hour of the normal working day following the receipt of the request.

c. Decisions regarding approval or denial for items or procedures other than prescription drugs will be made according to the time frames set forth in 42 CFR 438.210(d).

[Filed 12/10/20, effective 3/1/21]

[Published 12/30/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/20.

ARC 5363C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to family support statewide database

The Human Services Department hereby amends Chapter 155, "Child Abuse Prevention Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 235A.1.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 235A.1.

Purpose and Summary

This amendment modifies language around the Department's use of the Family Support Statewide Database, maintained by the Iowa Department of Public Health. The current rule requires the Department grantees to input participant data into the system. However, it does not authorize the Department to release the data to other state agencies, including the Iowa Department of Public Health. Under this rule making, the Department causes the Iowa Department of Public Health to access the participant data entered by Department grantees for the purposes of system quality assurance.

This amendment is necessary given the Department's role as a covered entity under the Health Insurance Portability and Accountability Act (HIPAA), a law designed to protect patients' medical and other health information records provided to health plans, doctors, hospitals and other health care providers. There will continue to be a memorandum of understanding with the Iowa Department of Public Health to address the privacy and security of the Department's data and to outline the expectations of both parties, but this amendment will prevent the need for individual patient authorization.

Department services are not intended to be medical treatments. However, case records may include participants' self-reported data about the family that could be classified as protected health information. For example, information about a child's developmental screening results is often a part of a home visiting program's record.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 21, 2020, as **ARC 5231C**. 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 December 10, 2020.

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 March 1, 2021.

The following rule-making action is adopted:

Amend subrule 155.4(2) as follows:

155.4(2) ~~Grantees, or the identified service providers, that provide family support services under the program shall enter participant data in~~ The department shall cause participant data to be entered into the state-administered, Internet-based data collection system identified in Iowa Code section 256I.13(3) and maintained by the Iowa department of public health. This release of information by the department is required by law, and as such, data entered into the system maintained by the Iowa department of public health will no longer be protected by the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and associated implementing regulations found at 45 CFR Parts 160, 162, and 164. In addition, no information gathered by grantees and disclosed pursuant to this subrule is gathered for purposes of treating individuals for substance abuse. As such, the data disclosed pursuant to this subrule is not protected by 42 U.S.C. §290dd-2 or by the implementing regulations found at 42 CFR 2. In addition, the substance abuse treatment information so released is not subject to the confidentiality provisions of Iowa law found at Iowa Code sections 125.37 and 125.93.

[Filed 12/10/20, effective 3/1/21]

[Published 12/30/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/20.

ARC 5353C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to adoption of 2017 food code

The Inspections and Appeals Department hereby amends Chapter 30, “Food and Consumer Safety,” and Chapter 31, “Food Establishment and Food Processing Plant Inspections,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 10A.104 and 137F.2(1).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104 and 137F.2(1).

Purpose and Summary

These amendments adopt by reference the 2017 Food and Drug Administration (FDA) Food Code, update associated references to the Food Code, and make modifications to the adoption of the 2017 FDA Food Code with respect to food production manager certification requirements. The primary effects of adopting the 2017 FDA Food Code include changes to when a certified food protection manager is required (2017 FDA Food Code rule 2-201.12); requiring a person in charge to ensure food employees are routinely monitoring food temperatures (2017 FDA Food Code rule 2-103.11); and requiring a single-use glove to be worn over a bandage, finger cot, or finger stall (2017 FDA Food Code rule 2-401.13). The remaining effects of adopting the 2017 FDA Food Code generally provide clarification of existing requirements and editorial content. For the FDA’s summary of the changes in the 2017 FDA Food Code and the Supplement to the 2017 FDA Food Code, please visit: www.fda.gov/food/fda-food-code/summary-changes-fda-food-code-2017 and www.fda.gov/media/133749/download.

These amendments also correct an erroneous reference to Iowa Code chapter 137C.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 4, 2020, as **ARC 5262C**. 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 9, 2020.

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.

INSPECTIONS AND APPEALS DEPARTMENT[481](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 481—Chapter 6.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on February 3, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 481—30.2(10A,137C,137D,137F), introductory paragraph, as follows:

481—30.2(10A,137C,137D,137F) Definitions. If both the ~~2013~~ 2017 Food and Drug Administration Food Code with Supplement and rule 481—30.2(10A,137C,137D,137F) define a term, the definition in rule 481—30.2(10A,137C,137D,137F) shall apply.

ITEM 2. Amend rule 481—31.1(137F), introductory paragraph, as follows:

481—31.1(137F) Inspection standards for food establishments.² The department adopts, with the following exceptions, the ~~2013~~ 2017 Food Code with Supplement of the Food and Drug Administration as the state's "food code," which is the inspection standard for food establishments other than food processing plants.

ITEM 3. Amend subrule 31.1(1), introductory paragraph, as follows:

31.1(1) Unattended food establishments—assignment of responsibility. For the purposes of section 2-101.11(C) of the ~~2013~~ 2017 Food Code with Supplement, unattended food establishments are not required to have a designated person in charge present during all hours of operation provided that the permit holder ensures the following requirements are met.

ITEM 4. Rescind subrule 31.1(2) and adopt the following **new** subrule in lieu thereof:

31.1(2) Certified food protection manager requirements, exceptions, and time frames for compliance.

a. For the purposes of section 2-102.12(A) of the 2017 Food Code with Supplement, the food establishment may employ a single certified food protection manager who is not present at the food establishment during all hours of operation, as long as the following requirements are met:

(1) The individual who is a certified food protection manager has supervisory and management responsibility and the authority to direct and control food preparation and service at the food establishment;

(2) The person in charge demonstrates knowledge as prescribed in section 2-102.11 of the 2017 Food Code with Supplement; and

(3) The person in charge demonstrates active managerial control of food safety by complying with section 2-103.11 of the 2017 Food Code with Supplement.

b. A food establishment that, upon inspection, is found to be in violation of section 2-102.11 or 2-103.11 of the 2017 Food Code with Supplement will have six months to ensure that any individual designated as the person in charge is a certified food protection manager.

c. For the purposes of section 2-102.12(B), the following food establishments are not required to employ a certified food protection manager:

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

- (1) Food establishments that sell only prepackaged food.
- (2) Temporary or farmers market food establishments.
- (3) Food establishments at which food is not prepared, where customers may purchase beverages and where the service of food is limited to the service of ice, beverages, prepackaged snack foods, popcorn or peanuts and to the reheating of commercially prepared foods for immediate service that do not require assembly, such as frozen pizza or prepackaged sandwiches.
- (4) Food establishments at which food is not prepared, where customers may purchase only commercially prepared non-time/temperature control for safety foods that are dispensed either unpackaged or packaged and that are intended for off-premises consumption.

d. Time frames for compliance with section 2-102.12 of the 2017 Food Code with Supplement, as amended by paragraphs 31.1(2) “a” and “b,” are as follows:

- (1) Newly licensed facilities must comply with section 2-102.12 of the 2017 Food Code with Supplement, as amended by paragraphs 31.1(2) “a” and “b,” within six months of licensure.

- (2) If an individual meeting the requirement of paragraph 31.1(2) “a” leaves employment, the establishment shall meet the requirement of section 2-102.12 of the 2017 Food Code with Supplement, as amended by paragraphs 31.1(2) “a” and “b,” within six months of the individual’s departure.

ITEM 5. Rescind subrule **31.1(10)**.

ITEM 6. Renumber subrules **31.1(11)** to **31.1(19)** as **31.1(10)** to **31.1(18)**.

ITEM 7. Amend rule 481—31.4(137D,137F) as follows:

481—31.4(137D,137F) False label or defacement. No person shall use any label required by Iowa Code chapter ~~437C~~ 137D or 137F which is deceptive as to the true nature of the article or place of production, or which has been carelessly printed or marked, nor shall any person erase or deface any label required by this chapter.

This rule is intended to implement Iowa Code sections 137D.2 and 137F.2.

[Filed 12/9/20, effective 2/3/21]

[Published 12/30/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/20.

ARC 5354C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to food stands

The Inspections and Appeals Department hereby amends Chapter 30, “Food and Consumer Safety,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 10A.104 and 137F.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104 and 137F.2 and 2020 Iowa Acts, House File 2238.

Purpose and Summary

These amendments implement changes made to Iowa Code chapter 137F resulting from the enactment of 2020 Iowa Acts, House File 2238. The legislation adds “a stand operated by a minor” to the list of

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

things that are not considered to be a food establishment under the definition of “food establishment,” defines “stand operated by a minor,” and prohibits any regulatory authority from adopting or enforcing a rule requiring a license for a stand operated by a minor.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 4, 2020, as **ARC 5263C**. 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 9, 2020.

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 481—Chapter 6.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on February 3, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule **481—30.2(10A,137C,137D,137F)**, definition of “Food establishment,” as follows:

“*Food establishment*” means an operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption and includes a food service operation in a salvage or distressed food operation, nutrition program operated pursuant to Title III-C of the Older Americans Act, school, summer camp, residential service substance abuse treatment facility, halfway house substance abuse treatment facility, correctional facility operated by the department of corrections, or the state training school. Assisted living programs and adult day services are included in the definition of food establishment to the extent required by 481—subrules 69.28(6) and 70.28(6). “Food establishment” does not include the following:

1. to 17. No change.
18. A stand operated by a minor.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

ITEM 2. Adopt the following new definition of “Stand operated by a minor” in rule **481—30.2(10A,137C,137D,137F)**:

“Stand operated by a minor” means a stand or other facility operated by a person or persons under the age of 18 at which food is sold directly to consumers that is not time/temperature control for safety food or an alcoholic beverage and that operates on a temporary and occasional basis on private property with the permission of the owner of the property.

[Filed 12/9/20, effective 2/3/21]

[Published 12/30/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/20.

ARC 5343C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Rule making related to using ESG program funds to renovate emergency shelters

The Iowa Finance Authority hereby amends Chapter 42, “Emergency Solutions Grant Program,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 16.5.

Purpose and Summary

The Authority is the state agency charged with administering the Emergency Solutions Grant (ESG) program, a federal program funded and regulated by the U.S. Department of Housing and Urban Development (HUD). HUD regulations for ESG permit the renovation of emergency shelters for homeless shelters as an eligible activity. Rule 265—42.4(16) sets forth the eligible grant activities under the HUD program. Currently, rule 265—42.4(16), in the shelter category, only permits the operation of emergency shelters and the provision of essential services to homeless families and individuals. Historically, the Authority has received a relatively smaller annual allocation of funds, less than \$3 million per year. In spring and summer 2020, the Authority received two supplemental allocations totaling approximately \$20.9 million as part of the COVID-19 relief package. The Authority is adding renovation as a permitted activity because the need to renovate emergency shelters exists and the allocated funds are sufficient to award grant applications for renovation. The Authority awards funds through a competition and establishes the scoring criteria for prioritized activities for each competition cycle in accordance with funding levels and need. The Authority is also amending rule 265—42.5(16) to update an outdated statutory reference.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 7, 2020, as **ARC 5219C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Authority on December 2, 2020.

IOWA FINANCE AUTHORITY[265](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 Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on February 3, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 265—42.4(16) as follows:

265—42.4(16) Eligible activities. Eligible activities may include only the following:

42.4(1) Street outreach. Provision of essential services necessary to reach out to unsheltered homeless people; to connect them with shelter, housing, or critical services; and to provide urgent, non-facility-based care to unsheltered homeless people who are unwilling or unable to access shelter, housing, or an appropriate health facility.

42.4(2) Shelter. Provision of essential services to homeless families and individuals in shelters, the renovation of buildings to be used as emergency shelters for homeless families and individuals, and the operation of emergency shelters.

42.4(3) Prevention of homelessness. The provision of housing relocation and stabilization services, short- or medium-term rental assistance, or other financial assistance as necessary to prevent an individual or family from experiencing homelessness.

42.4(4) Rapid re-housing. The provision of housing relocation and stabilization services, short- or medium-term rental assistance, or other financial assistance as necessary to help an individual or family experiencing homelessness to move as quickly as possible into permanent housing and achieve stability in that housing.

42.4(5) Administrative costs. A subrecipient may use a portion of a grant received for administrative purposes as determined by IFA. IFA reserves the authority for distribution of administrative funds.

42.4(6) Homeless Management Information System (HMIS) projects. IFA may award grants for HMIS implementation to support data collection, reporting, and analysis as long as the total amount of such grants does not exceed 10 percent of the total Emergency Solutions Grant Program allocation. Eligible costs may include equipment, software, services, personnel, space, and operations for HMIS activities. IFA may in its discretion award such a grant, subject to the terms of this subrule, without regard to the application and review provisions of rules 265—42.6(16) and 265—42.7(16). Subrecipients of grants in support of other eligible activities listed in subrules 42.4(1) to 42.4(4) may also use a portion of such grants to support data collection and reporting using the HMIS or comparable database.

IOWA FINANCE AUTHORITY[265](cont'd)

ITEM 2. Amend rule 265—42.5(16) as follows:

265—42.5(16) Ineligible activities. As a general rule, any activity that is not authorized under the provisions of ~~P.L. 100-628~~ the HEARTH Act of 2009 is ineligible to be carried out with ESG program funds.

[Filed 12/4/20, effective 2/3/21]

[Published 12/30/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/20.

ARC 5348C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to administrative staff, service animals, equipment requirements, waivers, and a date extension

The Board of Pharmacy hereby amends Chapter 1, "Purpose and Organization," Chapter 2, "Pharmacist Licenses," Chapter 8, "Universal Practice Standards," Chapter 13, "Telepharmacy Practice," Chapter 16, "Nuclear Pharmacy Practice," Chapter 26, "Petitions for Rule Making," Chapter 34, "Rules for Waivers and Variances," and Chapter 39, "Expanded Practice Standards," 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, 2019 Iowa Acts, House File 766 and Senate File 341, and 2020 Iowa Acts, House Files 2627 and 2389.

Purpose and Summary

These amendments bring the Board's rules in alignment with Iowa Code changes made during the 2019 and 2020 Legislative Sessions. The subjects of the Iowa Code changes include:

- Oversight of the Board's Executive Director (2019 Iowa Acts, House File 766),
- Service animals or service-animals-in-training (2019 Iowa Acts, Senate File 341),
- Extension of future repeal date for physician-signed immunization protocols (2020 Iowa Acts, House File 2627),
- Waivers and variances (2020 Iowa Acts, House File 2389), and
- Submission of the disposition of a petition for rule making to the Administrative Rules Review Committee (2020 Iowa Acts, House File 2389).

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 29, 2020, as **ARC 5113C**. 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 November 17, 2020.

PHARMACY BOARD[657](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, pursuant to 657—Chapter 34.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on February 3, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 657—1.2(17A,147,155A,272C) as follows:

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

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

ITEM 2. Amend subrule 2.4(2) as follows:

2.4(2) Timeliness. To be eligible for a license by examination, the candidate shall pass all components in Iowa within a period of one year beginning with the date the candidate passed an initial component. A candidate may request waiver ~~or variance~~ from this deadline pursuant to the procedures and requirements of 657—Chapter 34.

ITEM 3. Amend rule 657—2.7(147) as follows:

657—2.7(147) Reexamination applications and fees. A candidate who fails to pass either the NAPLEX or the MPJE, Iowa Edition, once shall be allowed to schedule a time to retake the examination as provided in this rule. To ensure the integrity of the examinations, no waiver ~~or variance~~ of the specified waiting period between reexaminations will be granted.

2.7(1) to 2.7(4) No change.

ITEM 4. Amend subrule 8.5(5) as follows:

8.5(5) Orderly and clean. The pharmacy shall be arranged in an orderly fashion and kept clean. All required equipment shall be in good operating condition and maintained in a sanitary manner. Animals shall not be allowed within a licensed pharmacy unless that pharmacy is exclusively providing services for the treatment of animals or unless the animal is a service ~~dog or assistive animal~~ or service-animal-in-training as defined in Iowa Code ~~subsection 216C.11(1)~~ section 216C.1A.

PHARMACY BOARD[657](cont'd)

ITEM 5. Amend subrule 13.16(8) as follows:

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

a. The request for waiver shall be prepared and shall include the elements of a request for waiver or variance identified in 657—Chapter 34.

b. to d. No change.

ITEM 6. Amend rule 657—16.6(155A) as follows:

657—16.6(155A) Minimum equipment requirements. Each nuclear pharmacy shall maintain the following equipment for use in the provision of radiopharmaceutical services:

1. to 7. No change.

A pharmacy may request waiver or variance from a provision of this rule pursuant to the procedures and requirements of 657—Chapter 34.

ITEM 7. Amend rule 657—26.4(17A) as follows:

657—26.4(17A) Board consideration.

26.4(1) Initial activities. Within 14 days after the filing of a petition, the board shall submit a copy of the petition and any accompanying brief to the administrative rules coordinator and to the administrative rules review committee (ARRC). Upon request by the petitioner in the petition, the board shall schedule a brief and informal meeting between the petitioner and the board, a member of the board, or a member of the board staff of the board to discuss the petition. The board may request that the petitioner submit additional information or argument concerning the petition. The board may also solicit comments from any person on the substance of the petition. Any person may submit to the board comments on the substance of the petition.

26.4(2) Decision issued. Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the board shall, in writing, deny the petition, and notify the petitioner and the ARRC of its action and the specific grounds for the denial, or grant the petition and notify the petitioner and the ARRC that it has instituted initiated rule-making proceedings on the subject of the petition. ~~Petitioner~~ The petitioner and the ARRC shall be deemed notified of the denial or grant of the petition on the date when the board mails or delivers the required notification to the petitioner and the ARRC.

26.4(3) No change.

ITEM 8. Amend **657—Chapter 34**, title, as follows:

RULES FOR WAIVERS AND VARIANCES

ITEM 9. Amend rule 657—34.1(17A) as follows:

657—34.1(17A) Definition. For purposes of this chapter, a “waiver” or “variance” means action by the board which suspends, in whole or in part, the requirements or provisions of a rule as applied to an identified person or business on the basis of the particular circumstances of that person or business. For simplicity, the term “waiver” shall include both a waiver and a variance and the term “person” shall include both a person and a business.

ITEM 10. Amend rule 657—34.4(17A) as follows:

657—34.4(17A) Criteria for waiver or variance. In response to a petition for waiver, the board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

1. to 4. No change.

PHARMACY BOARD[657](cont'd)

ITEM 11. Amend rule 657—34.12(17A) as follows:

657—34.12(17A) Summary reports Submission of waiver information. ~~The~~ Within 60 days of granting or denying a waiver, the board shall semiannually prepare a summary report identifying make a submission on the Internet site established pursuant to Iowa Code section 17A.9A for the submission of waiver information. The submission shall identify the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, and a citation to the statutory provisions implemented by these rules. The report submission shall include a general summary of the reasons justifying the board's actions on waiver requests and, if If practicable, the submission shall detail the extent to which the granting of a waiver has established a precedent for additional waivers and the extent to which the granting of a waiver has affected the general applicability of the rule itself. Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

ITEM 12. Amend rule 657—39.10(155A) as follows:

657—39.10(155A) Vaccine administration by pharmacists—physician-approved protocol. Through June 30, ~~2020~~ 2021, an authorized pharmacist may administer vaccines pursuant to protocols established by the CDC in compliance with the requirements of this rule. An authorized pharmacist may only delegate the administration of a vaccine to an authorized pharmacist-intern under the direct supervision of the authorized pharmacist.

39.10(1) to 39.10(7) No change.

[Filed 11/30/20, effective 2/3/21]

[Published 12/30/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/20.

ARC 5350C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to patient information

The Board of Pharmacy hereby amends Chapter 8, “Universal Practice Standards,” and Chapter 21, “Electronic Data and Automated Systems in Pharmacy Practice,” 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 sections 147.76 and 155A.35.

Purpose and Summary

This rule making clarifies that patient information which is needed for a pharmacist to conduct drug utilization review shall be obtained and that the collection of such information can be delegated to a pharmacy technician or pharmacist-intern. This rule making also provides that an electronically transmitted prescription must include the telephone number where the prescriber can be contacted and updates a reference.

PHARMACY BOARD[657](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 29, 2020, as **ARC 5115C**. The Board received one comment from the Iowa Pharmacy Association in support of the amendments. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on November 17, 2020.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on February 3, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 657—8.21(155A) as follows:

657—8.21(155A) Prospective drug use review.

8.21(1) For purposes of promoting therapeutic appropriateness and ensuring rational drug therapy, a pharmacist shall review the patient record, information obtained from the patient, and each prescription drug or medication order to identify:

a. to h. No change.

Upon recognizing any of the above, the pharmacist shall take appropriate steps to avoid or resolve the problem and shall, if necessary, include consultation with the prescriber. Information that shall be obtained for the purpose of drug utilization review includes, but is not limited to, a complete list of prescription and nonprescription medications being used by the patient, patient allergies, and patient disease states. The collection of patient information to be used for drug utilization review may be delegated to a pharmacy technician or pharmacist-intern. The review and assessment of patient records shall not be delegated to pharmacy technicians or pharmacy support persons but may be delegated to registered pharmacist-interns under the direct supervision of the pharmacist.

8.21(2) No change.

ITEM 2. Amend paragraph **21.6(1)“d”** as follows:

d. In addition to the information requirements for a prescription, an electronically transmitted prescription shall identify the transmitter's telephone number for verbal confirmation, the telephone

PHARMACY BOARD[657](cont'd)

number where the prescriber can be contacted for timely consultation about patient care matters, the time and date of transmission, and the pharmacy intended to receive the transmission as well as any other information required by federal or state laws, rules, or regulations.

ITEM 3. Amend subrule 21.7(3) as follows:

21.7(3) Schedule II controlled substances—long-term care facility patients. A prescription for any Schedule II controlled substance for a resident of a long-term care facility, as “long-term care facility” is defined in rule ~~657—23.1(155A)~~ 657—23.2(155A), may be transmitted by the prescriber or the prescriber’s agent to a pharmacy via facsimile. The prescription shall identify that the patient is a resident of a long-term care facility.

[Filed 11/30/20, effective 2/3/21]

[Published 12/30/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/20.

ARC 5349C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to Schedules I and II controlled substances

The Board of Pharmacy hereby amends Chapter 10, “Controlled Substances,” and Chapter 11, “Drugs in Emergency Medical Service Programs,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 124.301.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 124.301.

Purpose and Summary

This rule making clarifies the expectation that a registrant’s perpetual inventory must at all times accurately reflect the actual on-hand inventory of the substances and simplifies the rule relating to the purchase of Schedule I or II controlled substances. Federal regulations were recently amended to allow a single-page order form for the purchase of Schedules I and II substances, but the regulations continue to allow the use of the prior triplicate order form for a period of time in addition to the electronic ordering process.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 29, 2020, as **ARC 5114C**. 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 November 17, 2020.

Fiscal Impact

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

PHARMACY BOARD[657](cont'd)

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on February 3, 2021.

The following rule-making actions are adopted:

ITEM 1. Rescind rule 657—10.17(124) and adopt the following **new** rule in lieu thereof:

657—10.17(124) Ordering or distributing Schedule I or II controlled substances. A registrant authorized to order or distribute Schedule I or II controlled substances shall do so only pursuant to and in compliance with DEA regulations via a DEA Form 222 or via the DEA Controlled Substances Ordering System (CSOS).

ITEM 2. Amend rule 657—10.18(124) as follows:

657—10.18(124) Schedule II perpetual inventory. Each registrant located in Iowa that maintains Schedule II controlled substances shall maintain a perpetual inventory system for all Schedule II controlled substances pursuant to this rule. All records relating to the perpetual inventory shall be maintained at the registered location and shall be available for inspection and copying by the board or its representative for a period of two years from the date of the record. The perpetual inventory shall accurately reflect the on-hand inventory of Schedule II substances, and the registrant is responsible for ensuring that the perpetual inventory record is accurate and matches the actual on-hand inventory at all times.

10.18(1) to 10.18(4) No change.

ITEM 3. Rescind rule 657—11.27(124,147A,155A) and adopt the following **new** rule in lieu thereof:

657—11.27(124,147A,155A) Ordering Schedule II controlled substances—medical director-based service programs. A registrant authorized to order or distribute Schedule II controlled substances shall do so only pursuant to and in compliance with DEA regulations via a DEA Form 222 or via the DEA Controlled Substances Ordering System (CSOS).

[Filed 11/30/20, effective 2/3/21]

[Published 12/30/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/20.

ARC 5346C**PHARMACY BOARD[657]****Adopted and Filed****Rule making related to controlled substances and precursor substances**

The Board of Pharmacy hereby amends Chapter 10, “Controlled Substances,” and Chapter 12, “Precursor Substances,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 124.201 and 124B.2 and 2020 Iowa Acts, Senate File 2119.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 124.201 and 124B.2 and 2020 Iowa Acts, Senate Files 2119 and 2357.

Purpose and Summary

These amendments:

- Temporarily place into the Iowa Controlled Substances Act five substances (one fentanyl precursor into Schedule II, an FDA-approved treatment for insomnia into Schedule IV, an FDA-approved treatment for seizures into Schedule V, and two chemicals used in the manufacture of illicit fentanyl as precursor substances),
- Remove the names of prior substances temporarily scheduled by rule in response to the permanent scheduling of those substances by 2020 Iowa Acts, Senate File 2119,
- Amend subrule 10.38(3) to incorporate updated language from 2020 Iowa Acts, Senate File 2119, and
- Rescind paragraph 10.30(2)“g” in response to 2020 Iowa Acts, Senate File 2357, section 1, which removes the requirement that the name of a supervising physician be included on a prescription issued by a physician assistant.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 26, 2020, as **ARC 5155C**. 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 November 17, 2020.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

PHARMACY BOARD[657](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 February 3, 2021.

The following rule-making actions are adopted:

ITEM 1. Rescind paragraph **10.30(2)“g.”**

ITEM 2. Amend subrule 10.38(3) as follows:

10.38(3) ~~*Cannabidiol—investigational—product*~~ *Cannabis-derived products*. If a ~~cannabidiol~~ ~~investigational~~ ~~cannabis-derived product~~ or ~~investigational~~ product approved as a prescription drug medication by the United States Food and Drug Administration is added to, eliminated from or revised in the federal schedule of controlled substances by the DEA and notice of the addition, elimination or revision is given to the board, the board shall similarly add, eliminate or revise the prescription drug medication in the schedule of controlled substances. Such action by the board shall be immediately effective upon the date of publication of the final regulation containing the addition, elimination or revision in the Federal Register.

ITEM 3. Rescind rule 657—10.39(124) and adopt the following **new** rule in lieu thereof:

657—10.39(124) Temporary designation of controlled substances.

10.39(1) Amend Iowa Code section 124.206(6) “c” to read as follows:

c. Immediate precursors to fentanyl:

- (1) 4-anilino-N-phenethyl-4-piperidine (ANPP).
- (2) N-phenyl-N-(piperidin-4-yl)propionamide (norfentanyl).

10.39(2) Amend Iowa Code section 124.210(3) by adding the following new paragraph:

be. Lemborexant.

10.39(3) Amend Iowa Code section 124.212(5) by adding the following new paragraph:

e. ([1(R)-1-(2-chlorophenyl)-2-(tetrazol-2-yl)ethyl] carbamate; 2H-tetrazole-2-ethanol, alpha-(2-chlorophenyl)-, carbamate (ester), (alphaR)-; carbamic acid (R)-(+)-1-(2-chlorophenyl)-2-(2H-tetrazol-2-yl)ethyl ester. Other name: cenobamate.

ITEM 4. Rescind and reserve rule **657—10.42(124B)**.

ITEM 5. Adopt the following **new** subrules 12.1(1) and 12.1(2):

12.1(1) Amend Iowa Code section 124B.2(1) by adding the following new paragraphs:

- a. N-(1-benzylpiperidin-4-yl)-N-phenylpropionamide (benzylfentanyl) and its salts.
- b. N-phenylpiperidine-4-amine(4-anilinopiperidine; N-phenyl-4-piperidinamine; 4—AP), its amides, its carbamates, and its salts.

12.1(2) Reserved.

[Filed 11/30/20, effective 2/3/21]

[Published 12/30/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/20.

ARC 5347C**PHARMACY BOARD[657]****Adopted and Filed****Rule making related to temporary designation of controlled substances**

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

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 124.201 and 124.201A and 2020 Iowa Acts, Senate File 2119.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 124.201 and 124.201A and 2020 Iowa Acts, Senate File 2119.

Purpose and Summary

These amendments to rule 657—10.39(124) make temporary amendments to the Iowa Code for scheduling action in the Iowa Controlled Substances Act (CSA) to match similar action taken by the federal Drug Enforcement Administration. The amendments add one substance (synthetic opioid) to Schedule I and remove Food and Drug Administration-approved cannabidiol products containing less than 0.1 percent tetrahydrocannabinol (THC) from Schedule V.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 23, 2020, as **ARC 5195C**.

The Board received one comment from the Consumer Healthcare Products Association, which expressed concern that the removal of FDA-approved cannabidiol products containing no more than 0.1 percent THC from Schedule V of the Iowa CSA would cause confusion in the marketplace since the December 2018 Agriculture Improvement Act (“2018 Farm Bill”) declared any cannabidiol product containing no more than 0.3 percent THC no longer a controlled substance. While the commenter is accurate regarding the 2018 Farm Bill’s declaration of cannabidiol products, this amendment simply removes from the Iowa CSA the specific language that is in direct conflict with federal law and meant to conform to the federal CSA.

A change from the Notice has been made to update the subrule numbers in order to account for a change in rule 567—10.39(124), which was rescinded and adopted new in **ARC 5346C**, IAB 12/30/20. Also, a change from the Notice has been made to remove the references to 2020 Iowa Acts, Senate File 2119, because that legislation has since been codified in the 2021 Iowa Code.

Adoption of Rule Making

This rule making was adopted by the Board on November 17, 2020.

Fiscal Impact

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

Jobs Impact

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

PHARMACY BOARD[657](cont'd)

Waivers

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

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 February 3, 2021.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** subrule 10.39(4):

10.39(4) Amend Iowa Code section 124.212 by rescinding subsection 6.

ITEM 2. Adopt the following **new** subrule 10.39(5):

10.39(5) Amend Iowa Code section 124.204(9) by adding the following new paragraph:

av. N,N-diethyl-2-(2-(4 isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (other names: isotonitazene; N,N-diethyl-2-[[4-(1-methylethoxy)phenyl]methyl]-5-nitro-1H-benzimidazole-1-ethanamine).

[Filed 11/30/20, effective 2/3/21]

[Published 12/30/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/20.

ARC 5352C

PHARMACY BOARD[657]**Adopted and Filed****Rule making related to radiopharmaceuticals**

The Board of Pharmacy hereby amends Chapter 16, "Nuclear Pharmacy Practice," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.76.

Purpose and Summary

This amendment requires nuclear pharmacies to comply with the minimum standards identified in United States Pharmacopeia General Chapter 825, which applies to radiopharmaceuticals and will be effective December 1, 2020.

PHARMACY BOARD[657](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 23, 2020, as **ARC 5194C**. The Board received one comment, which was in support of the amendment but suggested a grace period for compliance. Given the limited number of nuclear pharmacies impacted by the amendment and the Board's established waiver process available, the Board declined the suggested revision. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on November 17, 2020.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on February 3, 2021.

The following rule-making action is adopted:

Amend subrule 16.4(6) as follows:

16.4(6) *Compliance ~~with laws~~*. Nuclear pharmacies shall comply with all applicable laws and regulations of federal and state agencies, including those laws and regulations governing nonradioactive drugs. Nuclear pharmacies shall comply with all standards identified in United States Pharmacopeia General Chapter 825.

[Filed 11/30/20, effective 2/3/21]

[Published 12/30/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/20.

ARC 5351C**PHARMACY BOARD[657]****Adopted and Filed****Rule making related to accreditation**

The Board of Pharmacy hereby amends Chapter 17, “Wholesale Distributor Licenses,” and Chapter 43, “Third-Party Logistics Provider Licenses,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 155A.17 and 155A.17A.

Purpose and Summary

These amendments allow wholesale distributors and third-party logistics providers (3PL) that are seeking initial or renewal licensure in Iowa to attain accreditation through the National Coalition for Drug Quality and Security (NCDQS), the National Association of Boards of Pharmacy (NABP), or another board-approved accreditation program. These amendments also recognize the updated name of the NABP drug distributor accreditation program.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 9, 2020, as **ARC 5171C**.

The Board received numerous comments, overwhelmingly suggesting that the Board allow accreditation by NCDQS as a permanent alternative to NABP instead of the originally proposed alternative only for initial licensure. Commenters noted that the standards required to attain NCDQS accreditation are substantially equivalent to those required by NABP. The Board determined that drug supply chain security, and thus public safety, can be reasonably assured with either accreditation.

In response to the comments, the amendments were updated to reflect that either accreditation would meet the minimum standard for initial licensure or renewal. The Board also determined that additional accreditation programs may be initiated and added language to allow future accreditation programs, if approved by the Board, to be equivalent.

Adoption of Rule Making

This rule making was adopted by the Board on November 17, 2020.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

PHARMACY BOARD[657](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 February 3, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **17.3(1)“c”** as follows:

c. Evidence of current ~~verified-accredited-wholesale-distributors (VAWD)~~ drug distributor accreditation by the National Association of Boards of Pharmacy (NABP), the National Coalition for Drug Quality and Security (NCDQS), or another accreditation body approved by the board. This requirement does not apply to new applicants located in Iowa which must undergo an opening inspection by a board compliance officer or agent of the board prior to issuance of an initial license. Wholesale distributors located in Iowa shall provide evidence of ~~VAWD~~ drug distributor accreditation on or before license renewal.

ITEM 2. Amend subrule 43.3(1) as follows:

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

[Filed 11/30/20, effective 2/3/21]

[Published 12/30/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/20.

ARC 5344C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to special registration plates

The Department of Transportation hereby amends Chapter 401, “Special Registration Plates,” Iowa Administrative Code.

TRANSPORTATION DEPARTMENT[761](cont'd)

Legal Authority for Rule Making

This rule making is adopted 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 sections 321.34 and 321.166.

Purpose and Summary

This rule making updates Chapter 401 to conform the rules with 2020 Iowa Acts, House File 2641, section 155, which amends Iowa Code section 321.34, and 2020 Iowa Acts, House File 2641, section 156, which amends Iowa Code section 321.166, to provide for the creation of the new “flying our colors” license plates.

These amendments also make a technical change to remove the prohibition against allowing the number zero to be used on personalized license plates. Currently, the number zero may be used on county standard license plates, so this proposed amendment allows customers an additional character choice when requesting personalized license plates.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 21, 2020, as **ARC 5232C**. The Department did receive one comment in support of the change to allow the number zero to be used on personalized license plates. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on December 8, 2020.

Fiscal Impact

This rule making has no fiscal impact beyond the impact estimated by the Legislative Services Agency (LSA) for Senate File 2181, which originally proposed implementation of the new “flying our colors” license plate. The LSA calculated the fiscal impact would increase revenue to the Flood Mitigation Fund by \$61,250 in FY 2021 and \$70,000 in FY 2022.

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 February 3, 2021.

TRANSPORTATION DEPARTMENT[761](cont'd)

The following rule-making actions are adopted:

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

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

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

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

ITEM 3. Amend paragraph **401.6(2)“a”** as follows:

a. The characters “A” to “Z” and “1” “0” to “9” may be used. ~~Zeros shall not be used.~~

ITEM 4. Adopt the following new rule 761—401.14(321):

761—401.14(321) Flying our colors plates.

401.14(1) Application. Application for flying our colors plates shall be submitted to the department in a manner prescribed by the department. The applicant may request letter-number designated flying our colors plates or personalized flying our colors plates. Flying our colors plates are available for autocycles, motor trucks, motor homes, multipurpose vehicles, motorcycles, trailers and travel trailers.

401.14(2) Characters. Personalized flying our colors plates shall be issued in accordance with subrule 401.6(2).

ITEM 5. Amend **761—Chapter 401**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 35A.11; 321.34, as amended by 2020 Iowa Acts, House File 2641, section 155; 321.105; 321.166 as amended by 2020 Iowa Acts, House File 2641, section 156; and 321L.1 and chapter 17A.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/20.

ARC 5345C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to salvage motor vehicles

The Department of Transportation hereby amends Chapter 405, “Salvage,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12, 321.52 and 321.69.

TRANSPORTATION DEPARTMENT[761](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.52 and 321.69.

Purpose and Summary

This rule making relates to titling and registration of salvage motor vehicles and aligns with existing legal authority and Department practice. Iowa Code section 321.52 and 761—Chapter 405 provide a specific process for obtaining a regular certificate of title for a wrecked or salvage vehicle that has been rebuilt, including undergoing a salvage theft examination. A regular certificate of title is necessary before a rebuilt vehicle may be transferred to a new purchaser.

Title brands. These amendments remove outdated language that no longer appears on the title as well as conform to current Department practice of the system printing the brand on the title, rather than the title being physically stamped. These amendments also address the fact that Iowa is the only state that prints the “prior salvage” designation on the title rather than using the “rebuilt” designation. While these two phrases mean the same thing, other states do not recognize the “prior salvage” designation and it can sometimes cause confusion. Changing the title designation in Iowa to “rebuilt” rather than “prior salvage” will ensure consistency with other states and make the process more efficient because there will be less need for follow-up clarifications. Finally, these amendments conform the rules related to the titles for foreign vehicles to the amendments to utilize the designation “rebuilt” rather than “prior salvage,” but still account for times when a record check for a foreign vehicle may reflect that the vehicle was previously titled in Iowa under a “prior salvage” designation.

Salvage theft examinations. These amendments address the process for converting a salvage title to a regular title to reflect the current practice of notating in the computer system when a salvage theft examination is complete, rather than issuing a physical certificate of completion. These amendments also do the following:

- Clarify that educational institutions may also be assigned a salvage certificate of title as authorized by Iowa Code section 321.52(4)“b.”
- Utilize current terminology for the salvage theft examination form and align with current practice by no longer requiring an owner to certify by affidavit if a representative will be present at the salvage theft examination.
- Outline that there is a three-year period in which an owner seeking a salvage theft examination can request that the examination be scheduled utilizing the original fee.
- Strike an outdated requirement to use a physical form as evidence of completion of a salvage theft examination because this form is now completed electronically.
- Align the rules with current Department practice of accessing the affidavit of salvage vehicle repairs via the Department’s website.
- Provide that if a peace officer needs to utilize a physical salvage theft examination certificate, a peace officer is required to use a controlled form provided by the Department for such purposes.
- Align the rule with the fact that in almost all cases, there is no longer a physical salvage theft examination certificate, while maintaining the existing content of the rule that the results of a salvage theft examination are not transferable.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 21, 2020, as **ARC 5233C**. 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 8, 2020.

TRANSPORTATION DEPARTMENT[761](cont'd)

Fiscal Impact

Iowa Code section 321.52(4)“d” sets the fee for a salvage theft examination at \$50, with \$40 being retained by the local law enforcement agency completing the examination. The remaining \$10 is split evenly between the Road Use Tax Fund and the General Fund, with the General Fund portion being credited to the Iowa Law Enforcement Academy. In FY 2019, approximately 15,000 salvage theft exams were completed. The Department does not anticipate a significant increase or decrease in the number of salvage theft examinations because of this rule making. From 2016 to May 29, 2020, there have only been 47 examinations scheduled which have not yet been completed. If all 47 applicants waited three years before completing an examination and had to pay a new fee, the Department estimates an additional \$2,350 in fees will be generated because of this rule making (47 x \$50 = \$2,350), with \$235 of that amount going to the Road Use Tax Fund.

Jobs Impact

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

Waivers

Any person who believes that the 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 February 3, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 761—405.1(321) as follows:

761—405.1(321) Applicability. This chapter supplements 761—Chapter 400. It applies to salvage motor vehicles and foreign motor vehicles brought into Iowa that are or were salvage, rebuilt or junked. This chapter applies only to motor vehicles subject to registration except that owners of vehicles with a gross vehicle weight rating of 30,000 pounds or more are not required to submit a salvage theft examination ~~certificate~~ to convert a salvage title to a regular title.

ITEM 2. Adopt the following **new** definitions of “Foreign jurisdiction” and “Salvage theft examination certificate” in rule **761—405.2(321)**:

“*Foreign jurisdiction*” means a jurisdiction other than Iowa.

“*Salvage theft examination certificate*” means a certificate, including an electronic certificate in the form and manner prescribed by the department, issued by a peace officer who has been specially certified to conduct salvage theft examinations as provided in Iowa Code section 321.52.

ITEM 3. Amend subrule 405.3(1) as follows:

405.3(1) Face of title. Except for vehicles with a gross vehicle weight rating of 30,000 pounds or more, the following shall be ~~stamped in red ink~~ printed on the face of an Iowa salvage title: ~~SALVAGE—CANNOT BE REGISTERED WITHOUT A SALVAGE THEFT EXAMINATION CERTIFICATE OR AN INSURER’S CERTIFICATION.~~

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 4. Amend subrule 405.3(3) as follows:

405.3(3) Reassignment. Reassignment of an Iowa or a foreign salvage title by a licensed new motor vehicle dealer or by an authorized vehicle recycler is allowed, and the dealer or recycler is not required to obtain a new Iowa salvage title upon assignment of an Iowa or a foreign salvage title to the dealer or recycler, provided a vacant reassignment space is available on the title. If all reassignment spaces on an Iowa or a foreign salvage title assigned to the dealer or recycler have been used, the dealer or recycler shall obtain a new Iowa salvage title in accordance with subrule 405.3(2). The following shall be ~~stamped~~ printed on the dealer reassignment portion of Iowa salvage titles: ONLY NEW MOTOR VEHICLE DEALERS OR RECYCLERS MAY REASSIGN THIS TITLE.

ITEM 5. Amend paragraph **405.6(1)“b”** as follows:

b. Fair market value is the average retail value found in the National Automobile Dealers Association (NADA) Official Used Car Guide. If there is no value available, the ~~office of vehicle and motor carrier services bureau~~ shall determine the fair market value upon request. The address is: ~~Office of Vehicle and Motor Carrier Services Bureau, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278.~~

ITEM 6. Amend rule 761—405.7(321) as follows:

761—405.7(321) Converting salvage title to regular title.

405.7(1) General application procedure.

a. To obtain a regular title, the owner in whose name the salvage title is issued or assigned shall pay the appropriate fees and surrender the ~~following salvage title~~ when applying for the regular title:

~~(1) The salvage title.~~

~~(2) *b.* The salvage theft examination certificate issued in the applicant's name.~~ To obtain a regular title, the applicant shall have completed a salvage theft examination certificate for the vehicle as required by Iowa Code section 321.52. However, a salvage theft examination certificate is not required if the vehicle has a gross vehicle weight rating of 30,000 pounds or more. See rule 761—405.15(321) for salvage theft examination.

~~*b. c.* A regular title and registration receipt issued pursuant to this subrule shall bear the designation “prior salvage.”~~ “REBUILT-IA.”

405.7(2) Insurer's certification. An insurer who has title pursuant to Iowa Code ~~subsection~~ section 321.52(4) may submit an insurer's certification in lieu of a salvage theft examination certificate.

a. and *b.* No change.

c. A regular title and registration receipt issued pursuant to this subrule is not required to have a designation of ~~“prior salvage.”~~ “REBUILT-IA.” However, the title and registration receipt shall bear any designation to be carried forward, as explained in rule 761—405.10(321).

ITEM 7. Amend subrule 405.8(2) as follows:

405.8(2) Foreign title with rebuilt designation. If the prior title for a vehicle is a foreign title indicating that the vehicle was rebuilt, the Iowa title and registration receipt issued from the foreign title shall contain the designation of “rebuilt” together with the two-letter abbreviation of the name of the jurisdiction that issued the foreign title.

EXCEPTION: If a records check indicates that the vehicle was previously titled in Iowa with a designation of “prior salvage,” ~~the prior salvage designation shall be redesignated as “REBUILT-IA” and the prior salvage “REBUILT-IA” designation takes precedence and shall be carried forward to the Iowa title and registration receipt.~~ If a records check indicates that the vehicle was previously titled in Iowa with a designation of “REBUILT-IA,” the “REBUILT-IA” designation takes precedence and shall be carried forward to the Iowa title and registration receipt.

ITEM 8. Amend paragraph **405.8(4)“a”** as follows:

a. ~~“Prior salvage”~~ “REBUILT-IA” if the foreign title does not indicate that the vehicle was rebuilt.

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ITEM 9. Amend subrule 405.10(1) as follows:

405.10(1) The following designations for a vehicle shall be used on Iowa titles and registrations receipts and shall be carried forward to all subsequent Iowa titles and registration receipts issued for the vehicle, unless otherwise specified:

a. ~~Prior salvage.~~ “REBUILT-IA.” This designation supersedes other designations. When a designation of ~~“prior salvage”~~ “REBUILT-IA” is required pursuant to rule 761—405.7(321), it replaces any other designation.

b. Rebuilt together with a two-letter abbreviation of the name of a foreign jurisdiction. When this designation is required pursuant to subrule 405.8(2), it replaces any other designation except a ~~“prior salvage”~~ “REBUILT-IA” designation.

c. Damage over 50 percent. As required by Iowa Code section 321.69, a designation of “damage over 50 percent” shall be used when the seller or the buyer indicates on the damage disclosure statement that the person has knowledge that the motor vehicle sustained damage for which the cost of the repair exceeded 50 percent of the fair market value before the motor vehicle became damaged. This designation replaces any other designation except ~~“prior salvage” or “rebuilt.”~~

d. Flood, fire, vandalism or theft. The most recent designation applies. Unless superseded by a ~~“prior salvage,”~~ “REBUILT-IA,” “rebuilt,” or “damage over 50 percent” designation, a designation of “flood,” “fire,” “vandalism” or “theft” shall be used as specified in subrule 405.8(6) and supersedes a “lemon buy-back” designation.

e. Lemon buy-back. Unless superseded by a ~~“prior salvage,”~~ “REBUILT-IA,” “rebuilt,” “damage over 50 percent,” “flood,” “fire,” “vandalism” or “theft” designation, a designation of “lemon buy-back” shall be used:

(1) and (2) No change.

ITEM 10. Amend rule 761—405.15(321) as follows:

761—405.15(321) Salvage theft examination. Except for foreign salvage titles assigned to licensed new motor vehicle dealers, ~~or authorized vehicle recyclers, or educational institutions,~~ a salvage theft examination may only be conducted on a vehicle with an Iowa salvage title. The vehicle shall not be examined until it has been completely repaired, except for minor body parts such as trim, body marking or paint.

405.15(1) General procedure.

a. A salvage theft examination shall be conducted by a peace officer who has been specially certified, and recertified when required, by the Iowa law enforcement academy to perform salvage theft examinations.

(1) To arrange for a salvage theft examination by an investigator from the department of ~~transportation,~~ the applicant shall contact the ~~office of motor vehicle enforcement.~~ The address is: Office of Motor Vehicle Enforcement Bureau of Investigation and Identity Protection, Iowa Department of Transportation, P.O. Box 10473, Des Moines, Iowa 50306-0473 6310 SE Convenience Blvd., Ankeny, Iowa 50021; by telephone at (515)237-3050; or on the department’s website at www.iowadot.gov.

(2) No change.

b. The owner of the vehicle may drive the vehicle to and from the examination location by completing the permit ~~section~~ to drive located ~~on~~ within the electronic affidavit of salvage vehicle repairs form.

(1) and (2) No change.

c. The owner of the vehicle or the owner’s representative must be present for the examination ~~or certify, on the affidavit of salvage vehicle repairs, the name of the person who will be representing the owner at the examination.~~

d. No change.

e. The owner or owner’s representative shall electronically make payment for the salvage theft examination at the time the examination is scheduled, and the fee collected shall be distributed in accordance with Iowa Code section 321.52(4) “c.” The owner shall have three years from the date the

TRANSPORTATION DEPARTMENT[761](cont'd)

affidavit and payment were submitted to complete the salvage theft examination without having to pay a new fee.

~~f. If the vehicle passes the salvage theft examination, the peace officer shall complete a approve the completed salvage theft examination certificate on a form prescribed by the department. The form shall be distributed as follows:~~

~~(1) The white copy shall be mailed with the \$10 to the office of vehicle services at the Des Moines address.~~

~~(2) The canary copy shall be given to the owner or the owner's representative. This copy must be surrendered when applying for title.~~

~~(3) The pink copy shall be retained by the examining officer for three years for verification purposes.~~

~~g. and h. No change.~~

~~**405.15(2)** *Affidavit of salvage vehicle repairs form and salvage theft examination certificate.*~~

~~a. The affidavit of salvage vehicle repairs form may be obtained from the office of motor vehicle enforcement at the Des Moines address, any local enforcement agency with officers certified to conduct salvage theft examinations or any local county treasurer's office shall be accessed on the department's website.~~

~~b. The If a peace officer finds it necessary to use a physical salvage theft examination certificate, the salvage theft examination certificate shall be a controlled form and furnished by the department.~~

~~c. The owner of the vehicle may obtain a duplicate copy of the salvage theft examination certificate upon written request to the issuing officer or agency department.~~

~~d. The approved salvage theft examination certificate is not transferable to a different party or owner.~~

~~**405.15(3)** and **405.15(4)** No change.~~

[Filed 12/8/20, effective 2/3/21]

[Published 12/30/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/20.

PUBLIC HEARINGS: POSSIBLE USE OF TELEPHONIC OR ELECTRONIC FORMAT DUE TO COVID-19

To protect public health and promote efficient government operations during the COVID-19 outbreak, the format of a public hearing on a Notice of Intended Action (NOIA) scheduled and published in the Iowa Administrative Bulletin (IAB) may be changed, without further publication in the IAB, from an in-person hearing at a physical location to a hearing conducted solely via telephonic or electronic means. For information on whether the format of a public hearing as published in the IAB has changed and how to participate telephonically or electronically in such a hearing, see the Internet site of the relevant agency or contact the agency directly using the contact information published in the NOIA. See also section 114 of the Governor's proclamation of disaster emergency issued December 9, 2020: governor.iowa.gov/sites/default/files/documents/Public%20Health%20Proclamation%20-%202020.12.09.pdf.

| AGENCY | RULE | DELAY |
|----------------------------------|---|---|
| Public Safety Department[661] | ch 504 [IAB 11/18/20, ARC 5287C] | Effective date of January 1, 2021, delayed 70 days by the Administrative Rules Review Committee at its meeting held December 8, 2020. [Pursuant to §17A.4(7)] |
| Educational Examiners Board[282] | 13.16, 22.2, 24.4 [IAB 12/2/20, ARC 5303C] | Effective date of January 6, 2021, delayed until the adjournment of the 2021 session of the General Assembly by the Administrative Rules Review Committee at its meeting held December 8, 2020. [Pursuant to §17A.8(9)] |