Regulatory Analysis

Notice of Intended Action to be published: 653—Chapter 11
"Continuing Education and Training Requirements"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 272C
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 272C

Public Hearing

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

November 5, 2024 9 a.m.	6200 Park Avenue Des Moines, Iowa Information on virtual participation will be available on the Department of Inspections, Appeals, and Licensing's website prior to the hearing.

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Email: emily.deronde@dia.iowa.gov

Purpose and Summary

This proposed chapter sets forth continuing education requirements for physicians, acupuncturists, and genetic counselors. It includes definitions related to continuing education, the number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the chapter, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

There are no direct costs to the public. There is a direct cost to the licensee, who must pay for the continuing education required. Private industry offers these courses, so the Board of Medicine is not privy to exact costs, but they can vary from no cost to several thousand dollars. However, most continuing education offerings are between $50 and $200. There are multiple entities that provide continuing education courses to licensees. Often, hospital and clinical groups will offer these to their physicians free of charge.

Costs to the agency are for the staff time needed to manage Board activities, which include continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer supports the full scope

of work of this Board at approximately 0.31 full-time equivalent (FTE) position, which includes answering questions from the public and licensees on topics such as practice standards, continuing education, and Board meeting administration. Staff salaries to support the work of the Board are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the fund to cover the operations of the regulated professional licensing boards.

- Classes of persons that will benefit from the proposed rulemaking:

The Board believes the benefit is being achieved because the chapter requires that licensees meet specific continuing education requirements and continually update their knowledge base regarding their practice. This ensures that licensees understand best practices in an evolving field, which allows them to provide the best care to Iowans and potentially reduces the number of complaints. While there is no evidence to prove this correlation, this has been a long-standing belief that boards around the country have held, as is evidenced by the fact that most other boards around the country require some form of continuing education.

Most states have the same requirement as Iowa (40 hours of continuing education every two years). There are a number of states that require more hours. There are three states that require fewer: Vermont, Wisconsin, and Oklahoma. Notably, South Dakota does not require any continuing education. Requirements can be found at www.fsmb.org/siteassets/advocacy/regulatory/licensure/continuing-medical-education-requirements.pdf.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

Private industry offers these courses, so the Board is not privy to exact costs, but they can vary from no cost to several thousand dollars. However, most continuing education offerings are between $50 and $200. There are multiple entities that provide continuing education courses to licensees. Often, hospital and clinical groups will offer these to their physicians free of charge.

The Board believes that eliminating continuing education requirements may increase the number of complaints and investigations that the Board would need to conduct, but the Board has not been able to analyze this correlation so is unable to submit evidence of this belief.

- Qualitative description of impact:

There has been a historical belief that continuing education has a public safety benefit because it ensures the licensed professionals are receiving education on up-to-date standards of care and potentially reduces the number of complaints. While there is no evidence to prove this correlation, this has been a long-standing belief that boards around the country have held, as is evidenced by the fact that most other boards around the country require some form of continuing education.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

Costs to the agency are for the staff time needed to manage Board activities, which include continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer supports the full scope of work of this Board at approximately 0.31 FTE position, which includes answering questions from the public and licensees on topics such as practice standards, continuing education, and Board meeting administration. Staff salaries to support the work of the Board are covered by the fund. Licensing fees go to the fund to cover the operations of the regulated professional licensing boards.

- Anticipated effect on state revenues:

Costs associated with implementing this chapter are paid by individual licensees or establishments, not the State. This rulemaking has no anticipated impact on state revenues.

Staff salaries to support the work of the Board are covered by the fund. Licensing fees go to the fund to cover the operations of the regulated professional licensing boards.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The Board believes that the costs are justified by the benefits achieved. The purpose of continuing education is to ensure ongoing competency for providers. The Board believes that eliminating continuing education requirements may increase the number of complaints and investigations that the Board would need to conduct, but the Board has not been able to analyze this correlation so is unable to submit evidence of this belief.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

As explained above, South Dakota does not require any continuing education. However, without continuing education, there is question as to whether licensees would achieve the desired benefit of an updated practice knowledge and increased safety for Iowans. The Board believes continuing education is necessary and that the number of hours currently required ensures public safety and competent practice by physicians in Iowa.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

The Board believes all current requirements ensure public safety and ensure a minimum competency of care is provided to Iowans. Continuing education hours could be reduced or eliminated. However, without continuing education, there is question as to whether licensees would achieve the desired benefit of updated practice knowledge and increased safety for Iowans. The Board believes continuing education is necessary and that the number of hours currently required ensures public safety and competent practice by physicians in Iowa.

The proposed rules do allow for carryover of up to 50 percent of a licensee's continuing education hours if the licensee has more continuing education hours than required for the reporting period pursuant to updates from the 2024 Legislative Session.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

Without continuing education, there is question as to whether licensees would achieve the desired benefit of updated practice knowledge and increased safety for Iowans. The Board believes continuing education is necessary and that the number of hours currently required ensures public safety and competent practice by physicians in Iowa.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed chapter relates to high-stakes public safety concerns that are present whether the business is a small business or a large organization. The chapter is meant to ensure public safety in terms of licensing requirements for physicians. While some physicians likely are running a small business of their own, some also work for large corporations and hospitals. To exempt a small business from adhering to this chapter would jeopardize any member of the public who sought

services from that small business. The risk to the public is greater than the potential harm or cost to the small business. If the individual licensee finds a rule to be overly burdensome and the goals of which could be achieved in a manner that results in less impact on the small business, the licensee utilizes the Department's established waiver process.

Text of Proposed Rulemaking

ITEM 1. Rescind 653—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11
CONTINUING EDUCATION AND TRAINING REQUIREMENTS

653—11.1(272C) Definitions.

"ABMS" means the American Board of Medical Specialties. The board recognizes specialty board certification by ABMS.

"Accredited provider" means an organization approved as a provider of category 1 credit by one of the following board-approved accrediting bodies: Accreditation Council for Continuing Medical Education, Iowa Medical Society, or the Council on Continuing Medical Education of the AOA.

"Active duty" means full-time training or active service in the U.S. armed forces, reserves or national guard.

"Active licensee" means any person licensed to practice medicine and surgery or osteopathic medicine and surgery in Iowa who has met all conditions of licensure and maintains a current license to practice in Iowa.

"AMA" means the American Medical Association.

"AOA" means the American Osteopathic Association.

"Approved abuse education training program" means a training program using a curriculum approved by the abuse education review panel of the department of health and human services or a training program offered by a hospital, a professional organization for physicians, the department of education, an area education agency, a school district, the Iowa law enforcement academy, an Iowa college or university, or a similar state agency.

"Approved program or credit" means any category 1 credit offered by an accredited provider or any other program or credit meeting the standards set forth in these rules.

"Board" means the board of medicine.

"Carryover" means hours of category 1 credit earned in excess of the required hours in a license period that may be applied to the continuing education requirement in the subsequent license period; carryover may not exceed 20 hours of category 1 credit per renewal cycle.

"Category 1 credit" means any formal education program that is sponsored by an accredited provider. Credits designated as formal cognates by the American College of Obstetricians and Gynecologists or as prescribed credits by the American Academy of Family Physicians are accepted as equivalent to category 1 credits.

"Committee" means the licensure committee of the board.

"COMVEX-USA" means the Comprehensive Osteopathic Medical Variable-Purpose Examination for the United States of America.

"Continuing education" means education that is acquired by a licensee in order to maintain or enhance skills and knowledge present at initial licensure or to develop relevant skills and knowledge.

"Hour of continuing education" means a clock hour spent by a licensee in actual attendance at or completion of an approved category 1 credit.

"Inactive license" means any license that is not a current, active license.

"Licensee" means any person licensed to practice medicine and surgery or osteopathic medicine and surgery in the state of Iowa.

"Opioid" means any FDA-approved product or active pharmaceutical ingredient classified as a controlled substance that produces an agonist effect on opioid receptors and is indicated or used for the treatment of pain.

"Service charge" means the amount charged for making a service available on line and is in addition to the actual fee for a service itself.

"SPEX" means Special Licensure Examination prepared by the Federation of State Medical Boards and administered by a licensing authority in any jurisdiction. The passing score on SPEX is 75.

"Training for identifying and reporting abuse" means training as described in Iowa Code section 232.69; the full requirements for reporting of dependent adult abuse and the training requirements are in Iowa Code section 235B.16.

653—11.2(272C) Continuing education credit and alternatives.

11.2(1) Continuing education credit may be obtained by attending category 1 credits as defined in this chapter.

11.2(2) The board accepts the following as equivalent to 50 hours of category 1 credit: participation in an approved resident training program or board certification or recertification by an ABMS or AOA specialty board within the licensing period.

11.2(3) Each year, the board acknowledges up to ten hours of category 1 credits for physicians who served on the board or Iowa professional health committee, are actively serving alternate members, or performed peer reviews in the previous year. Recipients are notified by the board's executive director via mail in January.

653—11.3(272C) Continuing education and training requirements for renewal or reactivation. A licensee shall meet the requirements in this rule to qualify for renewal of a permanent license, an administrative medicine license, or special license or to qualify for reactivation of a permanent license or an administrative medicine license.

11.3(1) *Continuing education and training requirements.*

a. Continuing education for permanent license or administrative medicine license renewal. Except as provided in these rules, a total of 40 hours of category 1 credit or board-approved equivalent is required for biennial renewal of a permanent license or an administrative medicine license. This may include up to 20 hours of carryover credit.

(1) To facilitate license renewal according to birth month, a licensee's first license may be issued for less than 24 months. The number of hours of category 1 credit required of a licensee whose license has been issued for less than 24 months shall be reduced on a pro-rata basis.

(2) A licensee desiring to obtain credit for carryover hours reports the carryover, not to exceed 20 hours of category 1 credit, on the renewal application.

b. Continuing education for special license renewal. A total of 20 hours of category 1 credit shall be required for annual renewal of a special license. No carryover hours are allowed.

c. Training for identifying and reporting child and dependent adult abuse for permanent or special license renewal. A licensee shall complete the training for identifying and reporting child and dependent adult abuse as part of a category 1 credit or an approved training program. The licensee may utilize category 1 credit received for this training during the license period in which the training occurred to meet continuing education requirements in paragraph 11.3(1)*"a."*

(1) Training to identify child abuse. A licensee who regularly provides primary health care to children in Iowa must complete at least two hours of training provided by the department of health and human services pursuant to Iowa Code section 232.69(3)*"c"* in child abuse identification and reporting every three years. "A licensee who regularly provides primary health care to children" means all emergency physicians, family physicians, general practice physicians, pediatricians, and psychiatrists, and any other physician who regularly provides primary health care to children.

(2) Training to identify dependent adult abuse. A licensee who regularly provides primary health care to adults in Iowa must complete at least two hours of training provided by the department of health and human services pursuant to Iowa Code section 235B.16(5)*"c"* in dependent adult abuse identification and reporting every three years. "A licensee who regularly provides primary health care to adults" means all emergency physicians, family physicians, general practice physicians, internists, obstetricians, gynecologists, and psychiatrists and any other physician who regularly provides primary health care to adults.

d. Training for chronic pain management for permanent or special license renewal. The licensee shall complete the training for chronic pain management as part of a category 1 credit. The licensee may utilize category 1 credit received for this training during the license period in which the training occurred to meet continuing education requirements in paragraph 11.3(1)*"a."*

(1) Licensees who prescribed opioids in the prior license period must complete two hours of category 1 credit on U.S Centers for Disease Control and Prevention (CDC) guidelines for opioid prescribing every five years. The licensee may opt out of this requirement during license renewal if the licensee did not prescribe opioids in the previous cycle.

(2) A licensee who had a permanent or special license on January 1, 2019, has until January 1, 2024, to complete the chronic pain management training and shall then complete the training once every five years thereafter.

e. Training for end-of-life care for permanent or special license renewal. The licensee shall complete the training for end-of-life care as part of a category 1 credit. The licensee may utilize category 1 credit received for this training during the license period in which the training occurred to meet continuing education requirements in paragraph 11.3(1)*"a."*

(1) A licensee who regularly provides direct patient care to actively dying patients in Iowa must complete at least two hours of category 1 credit for end-of-life care every five years.

(2) A licensee who had a permanent or special license on January 1, 2019, has until January 1, 2024, to complete the end-of-life care training and shall then complete the training once every five years thereafter.

11.3(2) *Exemptions from renewal requirements.*

a. A licensee shall be exempt from the continuing education requirements in subrule 11.3(1) when, upon license renewal, the licensee provides evidence for:

(1) Periods that the licensee served honorably on active duty in the U.S. armed forces, reserves or national guard;

(2) Periods that the licensee practiced in another state or district and did not provide medical care, including telemedicine services, to patients located in Iowa if the other state or district had continuing education requirements for the profession and the licensee met all requirements of that state or district for practice therein;

(3) Periods that the licensee was a government employee working in the licensee's specialty and assigned to duty outside the United States; or

(4) Other periods of active practice and absence from the state approved by the board.

b. The requirements for training on chronic pain management and end-of-life care for license renewal shall be suspended for a licensee who provides evidence for:

(1) Periods described in subparagraph 11.3(2)*"a"*(1), (2), (3), or (4); or

(2) Periods that the licensee resided outside of Iowa and did not practice in Iowa.

11.3(3) *Extension for completion of or exemption from renewal requirements.* The board may grant an extension of time for or an exemption from completion of the renewal requirements in subrule 11.3(1) in cases of physical disability or illness.

a. A licensee requesting an extension or exemption shall complete and submit a request to the board that sets forth the reasons for the request and has been signed by the licensee and attending physician.

b. The board may grant an extension of time to fulfill the requirements in subrule 11.3(1).

c. The board may grant an exemption from the educational requirements for any period of time not to exceed one calendar year.

d. If the physical disability or illness for which an extension or exemption was granted continues beyond the period of waiver, the licensee must reapply for a continuance of the extension or exemption.

e. The board may, as a condition of any extension or exemption granted, require the applicant to make up a portion of the continuing education requirement by methods it prescribes.

11.3(4) *Reactivation requirement.* An applicant for license reactivation whose license has been inactive for one year or more shall provide proof of successful completion of 40 hours of category 1 credit completed within 24 months prior to submission of the application for reactivation or proof of successful completion of SPEX or COMVEX-USA within one year immediately prior to the submission of the application for reinstatement.

11.3(5) *Cost of continuing education and training for renewal or reinstatement.* Each licensee is responsible for all costs of continuing education and training required in 653—Chapter 11.

11.3(6) *Documentation.* A licensee shall maintain documentation of the continuing education and training, including dates, subjects, duration of programs, and proof of participation.

11.3(7) *Audits.* The board may audit continuing education and training documentation at any time. A licensee shall respond to a board audit and provide all materials requested within 30 days of a request made by board staff.

11.3(8) *Grounds for discipline.* A licensee may be subject to disciplinary action for failure to comply with continuing education and training requirements in 653—Chapter 11.

653—11.4(272C) Failure to fulfill requirements for continuing education and training for identifying and reporting abuse.

11.4(1) Disagreement over whether material submitted fulfills the requirements specified in rule 653—11.3(272C).

a. Staff will work with a licensee or applicant to resolve any discrepancy concerning credit for renewal or reinstatement.

b. When resolution is not possible, staff will refer the matter to the committee.

(1) In the matter of a licensee seeking license renewal, staff will renew the license if all other matters are in order and inform the licensee that the matter is being referred to the committee.

(2) In the matter of an applicant seeking reactivation, staff will reactivate the license if all other matters are in order and inform the applicant that the matter is being referred to the committee.

c. The committee considers the staff's recommendation for denial of credit for continuing education or training for identifying and reporting abuse, chronic pain management, and end-of-life care.

(1) If the committee approves the credit, it will authorize the staff to inform the licensee or applicant that the matter is resolved.

(2) If the committee disapproves the credit, it will refer the matter to the board with a recommendation for resolution.

d. The board will consider the committee's recommendations.

(1) If the board approves the credit, it will authorize the staff to notify the licensee or applicant for reinstatement if all other matters are in order.

(2) If the board denies the credit, it will:

1. Close the case;
2. Send the licensee or applicant an informal, nonpublic letter of warning or education; or
3. File a statement of charges for noncompliance with the board's rules on continuing education or training and for any other violations that may exist.

11.4(2) Informal appearance for failure to complete requirements for continuing education or training.

a. The licensee or applicant may, within ten days after the date that the notification of the denial was sent by certified mail, request an informal appearance before the board.

b. At the informal appearance, the licensee or applicant will have the opportunity to present information, and the board will issue a written decision.

These rules are intended to implement Iowa Code chapters 147 and 272C and sections 232.69 and 235B.16.