Regulatory Analysis

Notice of Intended Action to be published: 543—Chapter 5
"Adoption of Uniform Rules"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 25, 24.26, 24.30, 24.31 and 24.32

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 25 and sections 24.26, 24.30, 24.31 and 24.32

Public Hearing

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

November 19, 2024 10 a.m.	State Capitol, Room G14 1007 East Grand Avenue Des Moines, Iowa

Public Comment

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

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State Capitol, Room G13
1007 East Grand Avenue
Des Moines, Iowa 50319
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Purpose and Summary

Under the current rules in [543], numerous provisions sought to address concepts covered by the Uniform Rules on Agency Procedure. Guidance provided by Governor's staff has been to use the Uniform Rules wherever possible and to only make minimal changes to those Uniform Rules where necessary. Applying that guidance, the Board plans to rescind existing Chapters 6 and 7 and consolidate those concepts into a single new Chapter 5 focused on the Uniform Rules. The content of the existing Chapter 5 has been added to a new Chapter 4 in another Regulatory Analysis in the 10/30/24 Iowa Administrative Bulletin. This rulemaking rescinds the now-duplicative Chapter 5 and adopts this new Chapter 5 in its place. Chapters 6 and 7 are proposed to be rescinded in another Regulatory Analysis in the 10/30/24 Iowa Administrative Bulletin. The full set of Uniform Rules is proposed to be adopted by the Board, with internal references in those rules updated to reflect the Board's information or otherwise made to incorporate the rules into the board's set of administrative rules. The only substantive provisions retained from current Chapters 6 and 7 relate to fair information practices, where the Board's existing rules were thought to provide a benefit to the Board and citizens over the current Uniform Rules.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

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

Only individuals who submit claims bear costs associated with the rules. The rules provide minimally necessary guidance for those seeking to interact with the Board.

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

The proposed rulemaking slightly simplifies the existing rules, which benefits the public by removing burdens and easing access to the Board.

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:**

The rulemaking would not have a quantitative impact on citizens or any other entity.

- **Qualitative description of impact:**

The proposed rulemaking simplifies the existing set of rules and removes all restrictive words and phrases from the rules, which should provide those who access the rules a better qualitative experience when interacting with the Board.

3. **Costs to the State:**

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

The proposed rulemaking removes any unnecessary statements in the rules and simplifies the text where possible. There are no additional implementation or enforcement costs borne by any agency because of the updates to the rules.

- **Anticipated effect on state revenues:**

State revenues, as well as implementation and enforcement costs, do not change based on this cleanup of the Board's rules. It is not anticipated that there will need to be any system changes or other changes in policy of any kind.

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

Inaction is not permissible because the rules must be addressed pursuant to Executive Order 10. The benefits of the rulemaking should be that taxpayers accessing the Board should have an easier time because the rules will be easier to follow.

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

All rules were evaluated with the goal of reduction, elimination and simplification of the existing rules. No less intrusive methods have been identified along the way. No less costly alternatives were identified in the process.

6. **Alternative methods considered by the agency:**

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

There are no alternative methods. The Board must comply with Executive Order 10. The rules are minimally necessary to provide citizens the information they need to communicate with the Board.

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

There are no alternative methods. The Board must comply with Executive Order 10.

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 rulemaking does not have any substantial impact on small business. If anything, the rules will have a benefit to small business in the sense that these new rules will make it easier for small businesses to understand Board rules and coordinate with the Board.

Text of Proposed Rulemaking

ITEM 1. Rescind 543—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5
ADOPTION OF UNIFORM RULES

The board hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website.

543—5.1(17A,22) Fair information practices. The board hereby adopts, with the following exceptions and amendments, the uniform rules on agency procedure relating to fair information practices, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website. For purposes of this rule, the following designations are made:

5.1(1) In lieu of the words "(official or body issuing these rules)", insert "board".

5.1(2) In lieu of the word "agency", insert "board".

5.1(3) In lieu of the words "(insert agency head)", insert "chairperson of the board".

5.1(4) In lieu of the words "(insert agency name and address)", insert "the board at the board's mailing address".

5.1(5) In lieu of the words "(insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)", insert "8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays, and legal holidays".

5.1(6) In lieu of the words "(specify time period)", insert "30 minutes".

5.1(7) In lieu of the words "(An agency wishing to deal with search fees authorized by law should do so here.)", delete the statement.

5.1(8) In lieu of the words "(designate office)", insert "the board's executive secretary".

5.1(9) In lieu of the words "(and, where applicable, the time period during which the record may be disclosed)", insert "and, where applicable, the time period during which the record may be disclosed".

5.1(10) In lieu of the words "(Additional requirements may be necessary for special classes of records.)", insert "Additional obligations may be necessary for special classes of records".

5.1(11) In lieu of the words "(Each agency should revise its forms to provide this information.)", delete the statement.

543—5.2(17A,22) Additional fair information practices—uses and disclosures of information.

5.2(1) *General.* Board records are open for public inspection and copying unless otherwise provided by applicable law.

5.2(2) *Uses and disclosures of individually identifiable information.* To the extent allowed by law, uses or disclosures of confidential records may occur with or without the consent of the subject.

Types of uses or disclosures that occur without the subject's consent include but are not necessarily limited to the following:

a. Use or disclosure for a routine use in relation to the work of the board, as long as such use or disclosure is made subject to the same confidentiality obligations imposed on the board.

b. Use or disclosure for statistical research purposes or reporting as long as the information is deidentified in advance.

c. Use or disclosure for civil or criminal law enforcement activities to the extent authorized by law.

d. Disclosure to an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual.

e. Disclosure to the legislative services agency under Iowa Code section 2A.3.

f. Use or disclosure in the course of employee disciplinary proceedings.

g. Use or disclosure in response to a court order or subpoena.

5.2(3) *Complaints to public officials.* A letter from a subject of a confidential record held by the board to a public official that seeks the official's intervention on behalf of the subject in a matter that involves the board will, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

5.2(4) *Release to subject.* The subject of a confidential record may submit a request to review confidential records about that person. However, the board need not release the record to the subject to the extent that the record is confidential under applicable law. Records that may be declared confidential include but are not necessarily limited to records that are predecisional draft documents, peace officers' investigative reports, records that are subject to the attorney/client privilege, and records that are subject to the attorney work product doctrine. When a record has multiple identifiable subjects with interest in the confidentiality of the record, the board may take reasonable steps to protect confidential information relating to another subject.

543—5.3(17A) Petition for rulemaking. The board hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to petitions for rulemaking, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website. For purposes of this rule, the following designations are made:

5.3(1) In lieu of the word "agency", insert "board".

5.3(2) In lieu of the words "(designate office)", insert "board's mailing address".

5.3(3) In lieu of the phrase "designate official by full title and address", insert "chairperson of the board at the board's mailing address".

543—5.4(17A) Declaratory orders. The board hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to declaratory orders, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website. For purposes of this rule, the following designations are made:

5.4(1) In lieu of the words "designate agency", insert "board".

5.4(2) In lieu of the words "designate office", insert the "board's mailing address".

5.4(3) In lieu of the words "(An agency may wish to describe here a simplified alternative petition form that would be more appropriate for some members of its clientele in light of their particular circumstances.)", delete this sentence.

5.4(4) In lieu of the words "Within ____ days (15 or less)" found in rule X.2, insert "Within 15 days".

5.4(5) In lieu of the words "within ____ days of the filing of a petition" in rule X.3(1), insert "within 15 days of the filing of a petition".

5.4(6) In lieu of the words "(after time for notice under X.2(17A))", insert "15 days following receipt of notice from the board that a petition has been filed".

5.4(7) In lieu of the words "(agency name)", insert "board".

5.4(8) In lieu of the words "(specify office and address)", insert "the board at the board's mailing address".

5.4(9) In lieu of the words "(designate agency head)", insert "the chairperson of the board".

5.4(10) In lieu of the words "(uniform rule on contested cases X.12(17A))" and "(contested case uniform rule X.2(17A))", insert "the board's contested case rule".

5.4(11) In lieu of the sentence "(The agency may specify any provisions of Iowa Code sections 17A.10 through 17A.18 on contested case proceedings to apply to proceedings for declaratory orders.)", delete the statement.

5.4(12) In lieu of the sentence "(Where the agency's experience enables it to define in advance other specific reasons for refusing to issue a declaratory order, it should include them here.)", delete the statement.

5.4(13) In lieu of the phrase "(who consent to be bound)", insert "who consent to be bound".

5.4(14) At the end of rule X.12, add the following: "The final ruling of the board is subject to review pursuant to the board's contested case rules."

543—5.5(17A) Board procedure for rulemaking. The board hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to agency procedure for rulemaking, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website. For purposes of this rule, the following designations are made:

5.5(1) In lieu of the words "(commission, board, council, director)", insert "board".

5.5(2) In lieu of the word "agency", insert "board".

5.5(3) In lieu of the words "(specify time period)", insert "one calendar year".

5.5(4) In lieu of the words "(identify office and address)", insert "the executive secretary at the board's mailing address".

5.5(5) In lieu of the words "(designate office and telephone number)", insert "the executive secretary at 515.281.3078".

5.5(6) In lieu of the words "(designate office)", insert "the board's mailing address".

5.5(7) In lieu of the words "(specify the office and address)", insert "the board's mailing address".

5.5(8) In lieu of the words "(agency head)", insert "chairperson of the board".

5.5(9) In lieu of the words "(Alternatively, the agency can maintain the file indefinitely.)" and "(*NOTE: Alternatively to X.13(2)"j" and the amendment of X.13(4), an agency could keep a separate file of significant written criticisms to rules and maintain those for five years.)", delete the statements.

5.5(10) In lieu of the words "(at actual cost)", insert "at actual cost".

543—5.6(17A) Contested cases. The board hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to fair information practices, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website. For purposes of this rule, the following designations are made:

5.6(1) In lieu of the words "(agency name)" or "agency", insert "board".

5.6(2) In lieu of the words "(designate official)", insert "chairperson".

5.6(3) In lieu of the words "(specify rule number)", insert "rule".

5.6(4) In lieu of the words "(or such other time period the agency designates)", delete the statement.

5.6(5) In lieu of the words "(or its designee)", insert "or its designee".

5.6(6) In lieu of the words "(The agency may specify other good cause by rule.)", delete the statement.

5.6(7) In lieu of subrule X.6(4), delete the subrule.

5.6(8) In lieu of the words "(specify office and address)", insert "the board's executive secretary at the board's mailing address".

5.6(9) In lieu of the words "(designate office)", insert "board's executive secretary".

5.6(10) In lieu of the words "(or other time period designated by the agency)", delete the phrase.

5.6(11) In lieu of the words "Iowa Rule of Civil Procedure 237", insert "Iowa Rules of Civil Procedure, Division IX, Subdivision D".

5.6(12) In lieu of the words "(45 days)", insert "45 days".

5.6(13) In lieu of the words "(15 days)", insert "15 days".

5.6(14) In lieu of the words "(20 days)", insert "20 days".

5.6(15) In lieu of the words "(or other period of time specified by statute or rule)", delete the phrase.

5.6(16) In lieu of the words "(or other time specified by the agency)", delete the phrase.

5.6(17) In lieu of the words "(but, unless the defaulting party has appeared, it cannot exceed the relief demanded)", insert "but, unless the defaulting party has appeared, it cannot exceed the relief demanded".

5.6(18) In lieu of the words "(or disclosed)", insert "or disclosed".

5.6(19) In lieu of the words "(agency to designate person to whom violations should be reported)", insert "the chairperson of the board".

5.6(20) In lieu of the words "(board, commission, director)", insert "board".

5.6(21) In lieu of the words "(of the presiding officer)", insert "of the presiding officer".

5.6(22) In lieu of the words "(the agency) (or a quorum of the agency)", insert "the board".

5.6(23) In lieu of the words "(board, commission, director, as appropriate)", insert "board".

These rules are intended to implement Iowa Code chapter 17A.