Regulatory Analysis

Notice of Intended Action to be published: 481—subrule 721.2(4)
"Continuing Education for Respiratory Care Practitioners and Polysomnographic Technologists"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 148G, 152B and 272C

State or federal law(s) implemented by the rulemaking: Iowa Code sections 148G.5, 152B.6, 152B.11 and 272C.2

Public Hearing

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

November 19, 2024	6200 Park Avenue
4 p.m.	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 or oral 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:

Michele Royer
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.229.3939
Email: michele.royer@dia.iowa.gov

Purpose and Summary

This proposed rulemaking implements Iowa Code chapters 148C, 152B and 272C as amended by 2024 Iowa Acts, House File 2686. Chapter 721 sets forth continuing education and training requirements for respiratory care therapists and polysomnographists. The intended benefit of this chapter is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans. The Board of Respiratory Care and Polysomnography reviewed the continuing education requirements in the fall of 2023 pursuant to Executive Order 10. Subrule 721.2(4) is proposed to be amended to comply with the statutory changes from 2024 Iowa Acts, House File 2686, allowing a licensee to carry over up to 50 percent of excess completed continuing education hours from the previous renewal cycle. This rulemaking would grant respiratory care therapists and polysomnographists the ability to carry over up to 12 hours of continuing education earned in excess of the 24 hours required every two years.

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 industries offer these courses, so the Board is not privy to exact costs but, based on research, estimates the cost to be around $150 every two years for a licensee

to meet these requirements. There are multiple entities that provide continuing education courses to licensees.

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 0.2 full-time equivalent (FTE) position. 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:**

Licensees will have increased flexibility in selecting courses. Licensees could see a reduction in cost due to not losing excess hours earned.

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 industries, including educational institutions, professional associations, and businesses, offer these courses, so the Board is not privy to exact costs but, based on research, estimates the cost to be around $150 every two years for a licensee to meet these requirements. There are multiple entities that provide continuing education courses to licensees.

Currently, Iowa requires 24 hours of continuing education for these license types every two years.

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 0.2 FTE position, which includes answering questions from the public and licensees related to 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.

- **Qualitative description of impact:**

Licensees will be able to retain excess continuing education credits earned that they may have lost previously.

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 0.2 FTE position, which includes answering questions from the public and licensees related to 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 completing continuing education hours are paid to entities that provide continuing education opportunities, 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:**

Allowing licensees to carry over up to 50 percent of their excess continuing education hours will allow licensees greater flexibility and potentially cost savings. The impact on the private industry organizations that offer these continuing education programs is unknown.

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

A less restrictive alternative would be to reduce or eliminate continuing education requirements for respiratory care therapists and polysomnography technologists. Iowa requires 24 hours of continuing education every two years for respiratory care therapists, which is fairly consistent with a review of surrounding states. Minnesota, Missouri, and Illinois also require 24 hours every two years, and Kansas requires 12 hours every year. Nebraska and South Dakota each require 20 hours every two years. Representatives of the Board reviewed the required hours and did not support reducing them.

This rulemaking allows licensees to carry over up to 50 percent of excess continuing education hours from the previous reporting period. Allowing carryover of hours should provide more flexibility and potential cost savings for the licensee.

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

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

This rulemaking is proposed as a result of a legislative mandate to allow licensees to carry over up to 50 percent of continuing education hours from the previous reporting period.

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

The Board recently reduced the number of continuing education hours. Representatives of the Board reviewed the required hours and did not support further reducing them. The Board believes that eliminating continuing education requirements would 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.

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 these professions. These licensees may work for small businesses, as well as large corporations and hospitals. To exempt small businesses 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.

Text of Proposed Rulemaking

ITEM 1. Amend subrule 721.2(4) as follows:

721.2(4) ~~No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal.~~ Up to 50 percent of continuing education hours can be carried over into the next biennium if there was an amount of continuing education completed during the prior period that exceeded the minimum requirement. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.