Regulatory Analysis

Notice of Intended Action to be published: 655—Chapter 7
"Advanced Registered Nurse Practitioners"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A, 124, 147, 152, and 272C

State or federal law(s) implemented by the rulemaking: Iowa Code sections 17A.3, 124.551A, 124.552, 147.2, 147.10, 147.11, 147.72, 147.74, 147.76, 147.80, 147.107, 152.1, 152.6, 152.7, 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
9:30 a.m.	Des Moines, Iowa 50321

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:

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Des Moines, Iowa 50321
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Purpose and Summary

This proposed rulemaking describes the requirements to obtain an Advanced Registered Nurse Practitioner (ARNP) license and the scope of practice of an ARNP. The rulemaking is intended to ensure public safety by requiring national standards be met and complied with by all ARNPs in Iowa.

Analysis of Impact

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

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

There are costs associated with practice standards since there is effort and money associated with compliance. However, the costs generally impact only the practitioner. These costs may be passed on to the consumer. The Board of Nursing does not have a mechanism for estimating what these total costs might be to the public and to the licensee.

Costs to the agency are the staff time needed to manage the full scope of Board activities, which includes oversight of practice standards, questions from licensees and the public, administration of Board meetings, etc. Staff salaries are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees are paid into the fund to cover the costs of the Board's operations.

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

The public and the members of the profession benefit from this rulemaking. The benefits achieved justify the costs because the rules provide required guardrails for providing this important service to

Iowans. If this profession were not regulated, it could mean that lower-skilled individuals would provide this service to Iowans, which would be of concern 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:**

There are approximately 74,000 licensed individuals who provide nursing services to Iowans. In 2022, there were approximately 661 complaints filed with the Board, with 23 percent resulting in public discipline. These numbers represent the entire nursing population in Iowa, not just ARNPs.

There are costs associated with practice standards since there is often time effort and money associated with compliance. However, the costs generally impact only the practitioner. These costs may be passed on to the consumer. The Board does not have a mechanism for estimating what these total costs might be to the public and to the licensee.

Costs to the agency are the staff time needed to manage the full scope of Board activities, which includes oversight of practice standards, questions from licensees and the public, administration of Board meetings, etc. Staff salaries are covered by the fund.

- **Qualitative description of impact:**

The Board believes that the benefits achieved justify the costs because the rules provide required guardrails for providing this important service to Iowans. Without regulation, the Board has concerns about individuals without proper skills providing service to Iowans. This could cause harm to the public.

3. **Costs to the State:**

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

Costs to the agency are the staff time needed to manage the full scope of Board activities, which includes oversight of practice standards, questions from licensees and the public, administration of Board meetings, etc. Staff salaries are covered by the fund.

- **Anticipated effect on state revenues:**

There is 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:**

Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession, individuals who are not appropriately trained could harm the public. The Board believes the benefits achieved justify the costs to license this profession because it ensures that Iowans are treated with competent and qualified practitioners.

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

The Board has not identified a more cost-effective alternative to the licensure of ARNPs. The Board believes all current requirements ensure public safety and ensure a minimum competency of care is provided to Iowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of Iowans in that scenario. In addition, the rulemaking provides consistency related to the licensure of these professions in other states, which makes obtaining licensure in multiple states simpler for applicants.

Due to state government realignment, this Board is now part of the Department. The Department's Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. This rulemaking supports this

effort. The Department is actively pursuing a single licensing platform to assist in standardizing licensing.

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

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

The Board has not identified a more cost-effective alternative to the licensure of ARNPs. The Board believes all current requirements ensure public safety and ensure a minimum competency of care is provided to Iowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of Iowans in that scenario.

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

The intended benefit of a safe practice in Iowa may not be met since the Board would not have the authority to carry out discipline against licensees to ensure the minimum safety standards of the profession are being met.

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 rulemaking relates to high-stakes public safety concerns that are present whether the business is a small business or a large corporation. The rulemaking is meant to ensure public safety in terms of practice standards for physicians. While some licensees could be running a small business, some also work for large hospitals and clinics. To exempt small businesses from adhering to this rulemaking 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 a licensee finds a rule to be overly burdensome, the licensee can utilize the Department's established waiver procedures to request a waiver of the rule.

Text of Proposed Rulemaking

ITEM 1. Rescind 655—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7
ADVANCED REGISTERED NURSE PRACTITIONERS

655—7.1(17A,124,147,152) Definitions.

"Advanced registered nurse practitioner" or *"ARNP"* means a person who is currently licensed as a registered nurse under Iowa Code chapter 152 or 152E who is licensed by the board as an advanced registered nurse practitioner.

"Asynchronous store-and-forward transmission" means the collection of a patient's relevant health information and the subsequent transmission of the data from an originating site to a health care provider at a distant site without the presence of the patient.

"Board" as used in this chapter means the Iowa board of nursing.

"Collaboration" is the process whereby an ARNP and physician jointly manage the care of a client.

"Controlled substance" means a drug in Schedules II through V of subchapter II of Iowa Code chapter 124.

"Cross-coverage" means a licensee who engages in a remote evaluation of a patient, without in-person contact, at the request of another licensed health care provider who has established a proper practitioner-patient relationship with the patient.

"Dispense" means to provide a prescription drug to a patient for self-use outside of the ARNP's practice location. "Dispense" does not include administration.

"Licensee" means an individual licensed by the board as an advanced registered nurse practitioner.

"National professional certification organization" means the American Academy of Nurse Practitioners, the American Association of Critical Care Nurses, the American Midwifery Certification Board, the American Nurses Credentialing Center, the National Board of Certification and Recertification for Nurse Anesthetists, the National Certification Corporation, and the Pediatric Nursing Certification Board.

"On call" means a licensee is available, where necessary, to attend to the urgent and follow-up needs of a patient for whom the licensee has temporarily assumed responsibility, as designated by the patient's primary care licensee or other health care provider of record.

"Opioid" means a drug that produces an agonist effect on opioid receptors and is indicated or used for the treatment of pain.

"Prescription monitoring program database" or *"PMP database"* means a centralized database of reportable controlled substance prescriptions dispensed to patients and includes data access logs, security tracking information, and records of each individual who requests prescription monitoring program (PMP) information as operated by the board of pharmacy.

"Telehealth" means the practice of nursing using electronic audiovisual communications and information technologies or other means, including interactive audio with asynchronous store-and-forward transmission, between a licensee in one location and a patient in another location with or without an intervening health care provider. Telehealth includes asynchronous store-and-forward technologies, remote monitoring, and real-time interactive services, including teleradiology and telepathology. Telehealth, for the purposes of this rule, does not include the provision of nursing services only through an audio-only telephone, email messages, facsimile transmissions, or U.S. mail or other parcel service, or any combination thereof.

655—7.2(152) Requirements for licensure as an ARNP.

7.2(1) *Qualifications.* An applicant for an ARNP license shall:

a. Hold an active unrestricted license as a registered nurse in accordance with 655—Chapter 3.

b. Graduate from an accredited graduate or postgraduate advanced practice educational program in one of the following roles, except as provided by subrule 7.2(2):

(1) Certified nurse-midwife.

(2) Certified registered nurse anesthetist.

(3) Certified nurse practitioner.

(4) Clinical nurse specialist.

c. Hold current certification issued by a national professional certification organization as a certified nurse-midwife or certified registered nurse anesthetist, or as a certified nurse practitioner or clinical nurse specialist in at least one of the following population foci:

(1) Women's health/gender-related.

(2) Family (individual across the lifespan).
(3) Psychiatric mental health.
(4) Adult/gerontology.
(5) Pediatrics.
(6) Neonatal.

7.2(2) *Exception.* An applicant who has completed a formal advanced practice educational program but has not graduated from an accredited graduate or postgraduate advanced practice educational program may be licensed as an ARNP provided that the applicant possesses a current certification from a national professional certification organization as described in paragraph 7.2(1) *"c."* This exception is intended to allow for the grandfathering of ARNPs who completed educational programs before the board required graduation from an accredited graduate or postgraduate advanced practice educational program.

655—7.3(17A,147,152) Application process.

7.3(1) An applicant shall submit to the board:

a. An ARNP application for each population focus.

b. A dated copy of the applicant's current advanced level certification issued by the appropriate national professional certification organization.

c. If the applicant is not licensed as a registered nurse in Iowa, verification of an active registered nurse license in another state recognized for licensure in this state pursuant to the nurse licensure compact contained in Iowa Code chapter 152E.

d. A nonrefundable license fee of $81.

7.3(2) The applicant shall request that official transcripts be sent directly to the board from the educational program verifying the coursework, date of completion of the program, and the degree conferred.

7.3(3) The executive director of the board or the executive director's designee has the authority to determine if all requirements have been met for licensure of the applicant as an ARNP. If all requirements have been met:

a. The applicant will be issued a license and a certificate to practice as an ARNP that clearly denotes the applicant's name, title, and population focus, and the expiration date of the license.

b. The expiration date of the ARNP license will be the same as the expiration date of the applicant's license to practice as a registered nurse.

7.3(4) Licensure completion. An applicant shall complete the ARNP licensure process within 12 months from the start of the application. The board reserves the right to destroy incomplete application materials after 12 months.

7.3(5) Renewal of licensure. An ARNP license may be renewed beginning 60 days prior to the license expiration date and ending 30 days after the expiration date. To renew, a licensee shall submit the information required by subrule 7.3(1). The expiration date assigned to a renewed ARNP license is the same as the expiration date of the licensee's license to practice as a registered nurse.

7.3(6) Inactive status. Failure to renew an ARNP license within 30 days after its expiration results in an inactive ARNP license.

a. Continuing to work as an ARNP with an inactive ARNP license may result in disciplinary action.

b. To reactivate the license, the licensee must reactivate the underlying license to practice as a registered nurse, if required, and complete the license renewal process for the ARNP license.

7.3(7) License denial. Rule 655—3.9(17A,272C) governs the denial of an application for an ARNP license.

655—7.4(17A,147,152) Advanced nursing practice.

7.4(1) An ARNP shall practice within the ARNP's respective population foci and practice in accordance with the applicable standard of care as described in guidelines published by national professional associations or other reputable sources.

7.4(2) An ARNP must maintain current certification with a national professional certification organization at all times while the ARNP license is active.

7.4(3) An ARNP licensed by the board may prescribe, administer, or dispense prescription drugs or devices, including controlled substances, within the ARNP's role and population foci and consistent with applicable state and federal laws.

7.4(4) An ARNP has the authority to practice to the full extent of the ARNP's license, education, and experience in the ARNP's respective population foci. An ARNP may:

a. Assess health status;

b. Obtain a relevant health and medical history;

c. Perform physical examinations;

d. Order preventive and diagnostic procedures;

e. Formulate a differential diagnosis;

f. Develop a treatment plan;

g. Develop a patient education plan;

h. Receive third-party reimbursement;

i. Maintain hospital privileges; and

j. Promote health maintenance.

7.4(5) Supervision of fluoroscopy. An ARNP is permitted to provide direct supervision in the use of fluoroscopic X-ray equipment, as defined in rule 641—38.2(136C).

a. The ARNP shall provide direct supervision of fluoroscopy pursuant to the following provisions:

(1) Completion of an educational course including content in radiation physics, radiobiology, radiological safety and radiation management applicable to the use of fluoroscopy, and maintenance of documentation verifying successful completion.

(2) Collaboration, as needed, as defined in rule 655—7.1(17A,124,147,152).

(3) Compliance with facility policies and procedures.

b. The ARNP shall complete an annual radiological safety course whose content includes, but is not limited to, the time, dose, distance, shielding and effects of radiation.

c. The ARNP shall maintain documentation of the initial educational course and all annual radiological safety updates.

d. The initial and annual education requirements are subject to audit by the board pursuant to 655—subrule 5.2(10).

7.4(6) Only a person currently licensed as an advanced registered nurse practitioner may use that title and the letters "ARNP" after the person's name.

655—7.5(17A,147,152) Standards of practice for treating patients. An ARNP shall follow the standards of practice for the ARNP's respective population foci. Prior to treating a patient, an ARNP shall:

7.5(1) Establish a patient-provider relationship.

7.5(2) Perform and document the following, or have access to the patient's health records where all of the following have been documented by other providers in the care team:

a. Chief complaint;

b. Pertinent health history;

c. A focused assessment;

d. Diagnosis; and

e. Plan of treatment.

655—7.6(17A,124,147,152,272C) Standards of practice for controlled substances. An ARNP who prescribes or administers a controlled substance shall:

7.6(1) Review health history including but not limited to a personal and family substance abuse risk assessment, or the documented rationale for not performing the assessment.

7.6(2) Ensure the health record includes documentation of the presence of one or more recognized indications for the use of a controlled substance.

7.6(3) Utilize a treatment agreement if continuously prescribing one or more controlled substances.

7.6(4) Provide ongoing education of the risks of using a controlled substance, and information regarding addiction, physical dependence, substance abuse, and tolerance, or document the rationale for not providing the education.

7.6(5) Maintain an active Drug Enforcement Administration (DEA) registration and an active controlled substances Act (CSA) registration to dispense, prescribe, or administer controlled substances, when required by the DEA and the board of pharmacy.

7.6(6) Not prescribe a controlled substance to the ARNP's self or to a family member unless the prescribing occurs in a clinical setting when an emergency situation arises and when there is no other qualified practitioner available to the patient.

7.6(7) The board may discipline an ARNP for prescribing opioids in dosage amounts that exceed what would be prescribed by a reasonably prudent ARNP in a similar practice.

7.6(8) An ARNP who has prescribed opioids to a patient during the renewal cycle is required to complete a minimum of two contact hours of continuing education regarding the U.S. Centers for Disease Control and Prevention guideline for prescribing opioids for chronic pain, including recommendations on limitations on dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacologic therapy options, as a condition of license renewal every three years. These hours may count towards the 36 contact hours required for license renewal. The ARNP shall maintain documentation of these hours, which may be subject to audit.

655—7.7(124) Use of the prescription monitoring program.

7.7(1) Prior to the prescribing or dispensing of an opioid by an ARNP, the ARNP or the ARNP's authorized delegate shall query the PMP database and the ARNP shall review the patient's information contained in the PMP database.

7.7(2) This rule does not apply to an ARNP when treating a patient who is receiving inpatient hospice care or long-term residential facility care.

7.7(3) This rule does not apply to an ARNP who issues a medication order for an opioid to be administered to a patient at a hospital or clinic.

7.7(4) An ARNP is responsible for understanding the board of pharmacy's rules governing use of the prescription monitoring program in 657—Chapter 37.

655—7.8(152) Prescribing epinephrine auto-injectors, bronchodilator canisters, bronchodilator canisters and spacers, or opioid antagonists in the name of a facility or school.

7.8(1) An ARNP may issue a prescription for one or more epinephrine auto-injectors in the name of a facility as defined in Iowa Code section 135.185(1), a school district, or an accredited nonpublic school.

7.8(2) An ARNP may issue a prescription for one or more bronchodilator canisters or bronchodilator canisters and spacers in the name of a school district or an accredited nonpublic school.

7.8(3) An ARNP may issue a prescription for one or more opioid antagonists in the name of a school district.

7.8(4) An ARNP who prescribes epinephrine auto-injectors, bronchodilator canisters, bronchodilator canisters and spacers, or opioid antagonists in the name of an authorized facility as defined in Iowa Code section 135.185(1), a school district, or an accredited nonpublic school, to be maintained for use pursuant to Iowa Code sections 135.185, 135.190, 280.16, and 280.16A, provided

the ARNP has acted reasonably and in good faith, is not be liable for any injury arising from the provision, administration, or assistance in the administration of an epinephrine auto-injector, bronchodilator canister, bronchodilator canister and spacer, or opioid antagonist.

655—7.9(152) Standards of practice for telehealth.

7.9(1) *Telehealth permitted.* A licensee may, in accordance with all applicable laws and rules, provide health care services to a patient through telehealth.

7.9(2) *License required.* An advanced registered nurse practitioner who provides services through telehealth to a patient physically located in Iowa must be licensed by the board. A licensee who provides services through telehealth to a patient physically located in another state shall be subject to the laws and jurisdiction of the state where the patient is physically located.

7.9(3) *Standard of care.*

a. A licensee who provides services through telehealth is held to the same standard of care as is applicable to in-person settings. A licensee shall not perform any service via telehealth unless the same standard of care can be achieved as if the service was performed in person.

b. Prior to initiating contact with a patient for the purpose of providing services to the patient using telehealth, a licensee shall:

(1) Review the patient's history and all relevant medical records; and

(2) Determine as to each unique patient encounter whether the licensee will be able to provide the same standard of care using telehealth as would be provided if the services were provided in person.

7.9(4) *Scope of practice.* A licensee who provides services through telehealth must practice within the licensee's respective population foci and ensure the services provided are consistent with the licensee's scope of practice, education, training, and experience.

7.9(5) *Practitioner-patient relationship.*

a. Prior to providing services through telehealth, the licensee shall first establish a practitioner-patient relationship. A practitioner-patient relationship is established when:

(1) The person with a health-related matter seeks assistance from the licensee;

(2) The licensee agrees to provide services; and

(3) The person agrees to be treated, or the person's legal guardian or legal representative agrees to the person's being treated, by the licensee regardless of whether there has been a previous in-person encounter between the licensee and the person.

b. A practitioner-patient relationship can be established through an in-person encounter, consultation with another licensee or health care provider, or telehealth encounter.

c. Notwithstanding paragraphs 7.9(5)*"a"* and *"b,"* services may be provided through telehealth without first establishing a practitioner-patient relationship in the following settings or circumstances:

(1) Institutional settings;

(2) Licensed or certified nursing facilities, residential care facilities, intermediate care facilities, assisted living facilities, and hospice settings;

(3) In response to an emergency or disaster;

(4) Informal consultations with another health care provider performed by a licensee outside of the context of a contractual relationship, or on an irregular or infrequent basis, without the expectation or exchange of direct or indirect compensation;

(5) Episodic consultations by a specialist located in another jurisdiction who provides consultation services upon request to a licensee;

(6) A substitute licensee acting on behalf and at the designation of an absent licensee or other health care provider in the same specialty on an on-call or cross-coverage basis; or

(7) When a sexually transmitted disease has been diagnosed in a patient, a licensee prescribes or dispenses antibiotics to the patient's named sexual partner(s) for the treatment of the sexually transmitted disease as recommended by the U.S. Centers for Disease Control and Prevention.

7.9(6) *Consent to telehealth.* Prior to providing services via telehealth, the licensee shall obtain consent from the patient, or the patient's legal guardian or legal representative, to receive services via telehealth.

7.9(7) *Technology.* A licensee providing services through telehealth shall utilize technology that is secure and compliant with the Health Insurance Portability and Accountability Act of 1996, PL 104-191, August 21, 1996, 110 Stat. 1936, and any amendments as of October 30, 2024. The technology must be of sufficient quality, size, resolution, and clarity such that the licensee can safely and effectively provide the telehealth services and abide by the applicable standard of care.

7.9(8) *Prescriptions.* A licensee providing services through telehealth may issue a prescription to a patient as long as the issuance of such prescription is consistent with the standard of care applicable to the in-person setting.

7.9(9) *Records.* A licensee who provides services through telehealth shall maintain a record of the care provided to the patient. Such records shall comply with all applicable laws, rules, standards of care for recordkeeping, confidentiality, and disclosure of a patient's medical record.

7.9(10) *Follow-up care.* A licensee who provides services through telehealth shall refer a patient for follow-up care when required by the standard of care.

These rules are intended to implement Iowa Code sections 17A.3, 124.551A, 124.552, 147.2, 147.10, 147.11, 147.72, 147.74, 147.76, 147.80, 147.107, 152.1, 152.6, 152.7, and 272C.2C.