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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515)281-3355 or (515)242-6873

Soil Conservation and Water Quality Division[27]

Replace Analysis
Replace Chapter 16

Professional Licensure Division[645]

Replace Analysis
Replace Chapters 42 to 45

Dental Board[650]

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SOIL CONSERVATION AND WATER QUALITY DIVISION[27]

[Renamed Soil Conservation Division[27] under the Agriculture and Land Stewardship Department[21] “umbrella”]
[Renamed Soil Conservation and Water Quality Division[27] pursuant to 2015 Iowa Acts, House File 634]

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CHAPTER 16
WATER QUALITY INITIATIVE

27—16.1(161A) Purpose. The purpose of these rules is to support the reduction of nutrient losses and exports over time through the adoption of water quality practices and through the establishment and administration of targeted watershed demonstration projects and individual cost-share practices. The purpose is also to assist education and outreach about the feasibility and value of establishing water quality practices.

[ARC 1104C, IAB 10/16/13, effective 11/20/13]

27—16.2(161A) Definitions.

“*Council*” means the water resources coordinating council established pursuant to Iowa Code section 466B.3.

“*Department*” means the department of agriculture and land stewardship.

“*Division*” means the division of soil conservation and water quality, department of agriculture and land stewardship.

“*Eligible targeted watershed demonstration project applicants*” means individual or multiple soil and water conservation districts, counties, county conservation boards, cities, not-for-profit organizations authorized by the secretary of state, public water supply utilities or watershed management authorities.

“*Funds*” include the water quality initiative fund in Iowa Code section 466B.45, include the water quality infrastructure funds in 2018 Iowa Acts, Senate File 512, sections 23 and 24, and may include other moneys appropriated to the department or other nongovernmental funds.

“*Identified watersheds*” means the area identified by the council or by the division.

“*Maintenance/performance agreement*” means an agreement between the division, the recipient and the landowner. The recipient and landowner agree to maintain the soil conservation practices for which financial incentives from the division through the district have been received. The agreement states that the recipient and landowner will maintain, repair, or reconstruct the practices if they are not maintained according to the terms specified in the agreement. The terms of the agreement shall be specified by the division.

“*Nutrient*” includes total nitrogen and total phosphorus.

“*Nutrient reduction strategy*” means the document created and updated by the department, the department of natural resources, and Iowa State University of Science and Technology in order to assess and reduce nutrients in watersheds.

“*Recipient*” means an eligible applicant who has qualified for and received cost-share payments under this chapter or a project participant who has qualified for and received cost-share payments.

“*Secretary*” means the Iowa secretary of agriculture.

“*Watershed management authority*” means an authority as defined in Iowa Code section 466B.21.
[ARC 1104C, IAB 10/16/13, effective 11/20/13; ARC 2192C, IAB 10/14/15, effective 11/18/15; ARC 3957C, IAB 8/15/18, effective 9/19/18]

27—16.3(161A,466B) Cost share. Except for edge-of-field practices and land use changes, the division’s share of the practice cost shall not exceed the lesser of 50 percent of the estimated cost of establishing the practice as determined by the division or 50 percent of the actual cost of the practice.

[ARC 1104C, IAB 10/16/13, effective 11/20/13; ARC 3957C, IAB 8/15/18, effective 9/19/18]

27—16.4(161A,466B) Eligible practices. Only practices whose function improves water quality will be eligible for funds. These practices are identified in the nutrient reduction strategy or by the division. Practices shall meet applicable Natural Resources Conservation Service conservation standards and specifications or applicable standards and specifications set out by the department. Urban infrastructure program projects shall meet the applicable standards in the Iowa storm water management manual published by the department of natural resources. Permanent practices eligible for funding include but are not limited to wetlands, bioreactors, buffers, structures, land use changes, terraces, waterways and managed drainage systems. Management practices eligible for funding include but are not limited to

cover crops and living mulches. Application may be made to the division for cost-share funding for individual cost-share practices or for projects.

[ARC 1104C, IAB 10/16/13, effective 11/20/13; ARC 3957C, IAB 8/15/18, effective 9/19/18]

27—16.5(161A) Ineligible practices. Repair and maintenance of existing practices are not eligible for funding.

[ARC 1104C, IAB 10/16/13, effective 11/20/13]

27—16.6(161A) Statewide cost-share practices. Individual statewide cost-share practices may be eligible for funding as determined by the division.

[ARC 1104C, IAB 10/16/13, effective 11/20/13]

27—16.7(161A) Targeted watershed demonstration projects. Projects shall be conducted in the identified watersheds. The division shall conduct water quality evaluations within supported subwatersheds.

[ARC 1104C, IAB 10/16/13, effective 11/20/13]

27—16.8(161A) Project threshold application requirements.

16.8(1) General application requirements. Project applications shall include the demonstration, outreach, and education objectives of the project and the plan for implementation; project costs, including the estimated cost of each measure to be implemented for each year of participation; anticipated landowner contributions; requested cost-share match; and expected contributions from project participants. Personnel needs and contributions should be outlined.

16.8(2) Landowner interest. An assessment of the interest and participation of the eligible applicants shall be included. A majority of the eligible applicants must reside or own land in the demonstration project. Collaborative participation by eligible applicants in the same identified subwatershed will be viewed favorably.

16.8(3) Project maintenance. Measures to be taken to ensure the long-term viability of the project through maintenance agreements, easements, or other such measures will be outlined in the agreement.

16.8(4) Time frame. The time frame for implementation will be identified in the application and set out in the agreement.

16.8(5) Project evaluation. The criteria for evaluation plans will be identified in the request for applications, and an evaluation plan will be contained in the project application.

[ARC 1104C, IAB 10/16/13, effective 11/20/13]

27—16.9(161A) Application review. Identified watershed projects meeting the threshold requirements will be reviewed, evaluated and ranked by the division using criteria described in the request for applications. Funding recommendations will take into account the program objective to demonstrate and promote a variety of conservation practices in combination with education and outreach.

[ARC 1104C, IAB 10/16/13, effective 11/20/13]

27—16.10(161A) Annual review. The division will review each project annually. The division may establish a budget for the next project year; renegotiate with the applicant or recipient about the objectives, procedures, budget, reports or time schedule; or terminate the project.

[ARC 1104C, IAB 10/16/13, effective 11/20/13]

27—16.11(161A) Contract requirements. Recipients must complete performance and maintenance of the practice as required by the contract. Practices shall meet applicable Natural Resources Conservation Service conservation standards and specifications or applicable standards and specifications set out in the contract. The division may, for cause, find that a recipient is not in compliance with the requirements. At the division's discretion, remedies for noncompliance may include penalties up to and including the return of funds to the division. Reasons for a finding of noncompliance include but are not limited to the recipient's use of funds for activities not described in the contract, the recipient's failure to complete funded projects in a timely manner, the recipient's failure to carry out the terms of the performance/maintenance agreement, the recipient's failure to comply with applicable state or

local rules or regulations, or the lack of a continuing capacity of the recipient to carry out the approved project in a timely manner.

[ARC 1104C, IAB 10/16/13, effective 11/20/13]

27—16.12(161A) Appeal. A recipient who has been ordered to maintain, repair or reconstruct a temporary or permanent practice subject to a maintenance/performance agreement may, as appropriate, review the order with the division. When a recipient wishes to appeal an order to maintain, repair or reconstruct a temporary or permanent practice subject to a maintenance/performance agreement, the recipient may file a written request for review with the division. The division review shall be conducted by the division director or the director's designee. This proceeding shall be informal. The recipient shall request the review with the secretary in writing within 30 days following the review with the division. The secretary or the secretary's designee will either affirm, modify, or vacate the administrative order following the completion of the contested case hearing.

[ARC 1104C, IAB 10/16/13, effective 11/20/13]

These rules are intended to implement 2018 Iowa Acts, Senate File 512.

[Filed ARC 1104C (Notice ARC 0979C, IAB 8/21/13), IAB 10/16/13, effective 11/20/13]

[Filed ARC 2192C (Notice ARC 2102C, IAB 8/19/15), IAB 10/14/15, effective 11/18/15]

[Filed ARC 3957C (Notice ARC 3847C, IAB 6/20/18), IAB 8/15/18, effective 9/19/18]

PROFESSIONAL LICENSURE DIVISION[645]

Created within the Department of Public Health[641] by 1986 Iowa Acts, chapter 1245.
Prior to 7/29/87, for Chs. 20 to 22 see Health Department[470] Chs. 152 to 154.

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CHAPTER 42
COLLEGES FOR CHIROPRACTIC PHYSICIANS
[Prior to 7/24/02, see 645—40.9(151)]

645—42.1(151) Definitions. For the purposes of these rules, the following definitions shall apply:

“Chiropractic intern” means a chiropractic student of an approved college of chiropractic in the student’s last academic quarter, semester, or trimester of study, who is eligible for graduation from the college of chiropractic and is eligible to complete a preceptorship program, as authorized by these rules.

“Chiropractic preceptor” means a chiropractic physician licensed and practicing in Iowa pursuant to Iowa Code chapter 151, who accepts a chiropractic intern or resident into the practice for the purpose of providing the chiropractic student with a clinical experience of the practice of chiropractic, and who meets the requirements of these rules.

“Chiropractic resident” means a graduate chiropractic physician who has received a doctor of chiropractic degree from a college of chiropractic approved by the board, and who is not licensed in any state, but who is practicing under a chiropractic preceptorship authorized under these rules.

“Chiropractic student” means a student of an approved college of chiropractic.

“Council on Chiropractic Education” or *“CCE”* means the organization that establishes the Educational Standards of Chiropractic Colleges and Bylaws. A copy of the standards may be requested from the Council on Chiropractic Education (CCE). CCE’s address and Web site may be obtained from the board’s Web site.

“Preceptorship practice” means the chiropractic practice of a single chiropractic physician or group of chiropractic physicians in a particular business or clinic, into which a licensed practicing chiropractic physician has accepted a chiropractic intern or chiropractic resident for the limited purpose of providing the intern or resident with a clinical experience in the practice of chiropractic.

“60-minute hour” means at least 50 minutes of resident attendance with no more than 10 minutes for note taking and breaks.

645—42.2(151) Board-approved chiropractic colleges.

42.2(1) Approval of a chiropractic college may be granted if the program submits proof to the board of chiropractic that the chiropractic program meets the following requirements:

a. The chiropractic college is fully accredited by the Commission on Accreditation of the Council on Chiropractic Education (CACCE), as recognized by the U.S. Department of Education.

b. The core curriculum meets the requirements of the CACCE standards and, in addition:

(1) Covers a period of four academic years totaling not less than 4,000 60-minute hours in actual resident attendance;

(2) Comprises a supervised course of study, including clinical practical instruction, in all of the subjects specified in Iowa Code section 151.1(3); and

(3) Includes a minimum of 120 hours of physiotherapy coursework with a clinical practical component on the procedures covered in the course.

c. The chiropractic college publishes in a regularly issued catalog the requirements for graduation and degrees that are required by the Iowa board of chiropractic.

d. Transcripts include entries for all completed coursework.

42.2(2) Rescinded IAB 8/15/18, effective 9/19/18.

[ARC 3962C, IAB 8/15/18, effective 9/19/18]

645—42.3(151) Practice by chiropractic interns and chiropractic residents. A student enrolled in a board-approved chiropractic preceptorship program in the state of Iowa may treat patients without obtaining an Iowa license, provided the requirements of these rules are met.

645—42.4(151) Approved chiropractic preceptorship program. The board shall approve a chiropractic college’s preceptorship program if the program meets the following requirements:

42.4(1) The preceptorship program meets current CCE standards for consumer protection.

42.4(2) The preceptorship program is an established component of the curriculum offered by a board-approved chiropractic college.

42.4(3) Chiropractic interns who participate in the preceptorship program have met all requirements for graduation from the chiropractic college except for completion of the preceptorship period.

42.4(4) Chiropractic residents who participate in the postgraduate preceptorship program have graduated from a chiropractic college approved by the board.

42.4(5) All chiropractic physicians who serve as preceptors shall be approved under rule 645—42.5(151).

42.4(6) The chiropractic college retains ultimate responsibility for student learning and evaluations during the preceptorship.

42.4(7) The chiropractic preceptor shall supervise no more than one chiropractic intern or one chiropractic resident for the duration of a given preceptorship period.

42.4(8) If a preceptor agreement must be canceled for any reason, it is the responsibility of the chiropractic college to assign the intern or resident to another preceptor and notify the Iowa board of chiropractic of the preceptorship cancellation. The notice shall include reasons for cancellation of the preceptorship.

645—42.5(151) Approved chiropractic physician preceptors.

42.5(1) The board shall approve a chiropractic physician to be a chiropractic physician preceptor if the chiropractic physician meets the following criteria:

a. The chiropractic physician holds a current Iowa chiropractic license and has continuously held licensure in the United States for the previous five years prior to preceptorship;

b. The chiropractic physician is currently fully credentialed by the sponsoring chiropractic college and approved by the board; and

c. The chiropractic physician has not had any formal disciplinary action or has not, within the past three years, been a party to a malpractice settlement or judgment which the board has determined to be disqualifying.

42.5(2) The role of the chiropractic physician preceptor shall include:

a. Responsibility for supervising the practice of the chiropractic intern or chiropractic resident who is accepted into a preceptorship practice.

b. Identifying the chiropractic intern or chiropractic resident to the patients of the preceptorship practice to ensure that no patient will misconstrue the status of the intern or resident. The intern or resident shall wear a badge identifying that person as an intern or resident at all times in the presence of preceptorship patients.

c. Exercising direct, on-premises supervision of the chiropractic intern or chiropractic resident at all times that the intern or resident is engaged in any facet of patient care in the chiropractic physician preceptor's clinic.

d. Directing the chiropractic intern or chiropractic resident only in treatment care that is within the educational background and experience of the preceptor.

e. Notifying the preceptorship program within 30 days of either of the following actions:

(1) If the preceptor has any formal disciplinary action taken by any licensing entity; or

(2) If the preceptor is a party to any malpractice settlement or judgment.

[ARC 3962C, IAB 8/15/18, effective 9/19/18]

645—42.6(151) Termination of preceptorship. A preceptorship may terminate upon the occurrence of one of the following events:

42.6(1) Interns. The intern graduates from a board-approved college of chiropractic.

42.6(2) Residents. Twelve months have passed since the resident graduated from a board-approved college of chiropractic.

42.6(3) Formal disciplinary action is taken against the preceptor or the preceptor is a party to a final malpractice judgment or settlement agreement.

[ARC 3962C, IAB 8/15/18, effective 9/19/18]

These rules are intended to implement Iowa Code chapter 151.

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[Filed ARC 3962C (Notice ARC 3774C, IAB 5/9/18), IAB 8/15/18, effective 9/19/18]

CHAPTER 43
PRACTICE OF CHIROPRACTIC PHYSICIANS
[Prior to 7/24/02, see 645—40.1(151) and 645—40.17(151) to 645—40.24(147,272C)]

645—43.1(151) Definitions. The following definitions shall be applicable to the rules of the Iowa board of chiropractic.

“Active chiropractic physiotherapy” means therapeutic treatment performed by the patient with the assistance and guidance of the chiropractic assistant including, but not limited to, exercises and functional activities that promote strength, endurance, flexibility, and coordination.

“Acupuncture,” pursuant to Iowa Code section 148E.1, means a form of health care developed from traditional and modern oriental medical concepts that employs oriental medical diagnosis and treatment, and adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease.

“Adjustment/manipulation of neuromusculoskeletal structures” means the use by a doctor of chiropractic of a skillful treatment based upon differential diagnosis of neuromusculoskeletal structures and procedures related thereto by the use of passive movements with the chiropractic physician’s hands or instruments in a manipulation of a joint by thrust so the patient’s volitional resistance cannot prevent the motion. The manipulation is directed toward the goal of restoring joints to their proper physiological relationship of motion and related function. Movement of the joint is by force beyond its active limit of motion, but within physiologic integrity. Adjustment or manipulation commences where mobilization ends and specifically begins when the elastic barrier of resistance is encountered by the doctor of chiropractic and ends at the limit of anatomical integrity. Adjustment or manipulation as described in this definition is directed to the goal of the restoration of joints to their proper physiological relationship of motion and related function, release of adhesions or stimulation of joint receptors. Adjustment or manipulation as described in this definition is by hand or instrument. The primary emphasis of this adjustment or manipulation is upon specific joint element adjustment or manipulation and treatment of the articulation and adjacent tissues of the neuromusculoskeletal structures of the body and nervous system, using one or more of the following:

1. Impulse adjusting or the use of sudden, high velocity, short amplitude thrust of a nature that patient volitional resistance is overcome, commencing where the motion encounters the elastic barrier of resistance and ending at the limit of anatomical integrity.

2. Instrument adjusting, utilizing instruments specifically designed to deliver sudden, high velocity, short amplitude thrust.

3. Light force adjusting, utilizing sustained joint traction or applied directional pressure, or both, which may be combined with passive motion to restore joint mobility.

4. Long distance lever adjusting, utilizing forces delivered at some distance from the dysfunctional site and aimed at transmission through connected structures to accomplish joint mobility.

“Anatomic barrier” means the limit of motion imposed by anatomic structure, the limit of passive motion.

“Chiropractic assistant” means a person who has satisfactorily completed a chiropractic assistant training program to perform selected chiropractic health care services under the supervision of a chiropractic physician.

“Chiropractic insurance consultant” means an Iowa-licensed chiropractic physician registered with the board who serves as a liaison and advisor to an insurance company.

“Chiropractic manipulation” means care of an articular dysfunction or neuromusculoskeletal disorder by manual or mechanical adjustment of any skeletal articulation and contiguous articulations.

“Differential diagnosis” means to examine the body systems and structures of a human subject to determine the source, nature, kind or extent of a disease, vertebral subluxation, neuromusculoskeletal disorder or other physical condition, and to make a determination of the source, nature, kind, or extent of a disease or other physical condition.

“Elastic barrier” means the range between the physiologic and anatomic barrier of motion in which passive ligamentous stretching occurs before tissue disruption.

“Extremity manipulation” means a corrective thrust or maneuver by a doctor of chiropractic by hand or instrument based upon differential diagnosis of neuromusculoskeletal structures applied to a joint of the appendicular skeleton.

“Malpractice” means any error or omission, unreasonable lack of skill, or failure to maintain a reasonable standard of care by a chiropractic physician in the practice of the profession.

“Mobilization” means movement applied singularly or repetitively within or at the physiological range of joint motion, without imparting a thrust or impulse, with the goal of restoring joint mobility.

“Passive chiropractic physiotherapy” means therapeutic treatment administered by the chiropractic assistant and received by the patient including, but not limited to, mechanical, electrical, thermal, or manual methods.

“Physiologic barrier” means the limit of active motion, which can be altered to increase range of active motion by warm-up activity.

“Practice of acupuncture,” pursuant to Iowa Code section 148E.1, means the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body based upon oriental medical diagnosis as a primary mode of therapy. Adjunctive therapies within the scope of acupuncture may include manual, mechanical, thermal, electrical, and electromagnetic treatment, and the recommendation of dietary guidelines and therapeutic exercise based on traditional oriental medicine concepts.

“Supervising chiropractic physician” means the Iowa-licensed chiropractor responsible for supervision of services provided to a patient by a chiropractic assistant.

“Supervision” means the physical presence and direction of the supervising chiropractic physician at the location where services are rendered.

645—43.2(147,272C) Principles of chiropractic ethics. The following principles of chiropractic ethics are hereby adopted by the board relative to the practice of chiropractic in this state.

43.2(1) These principles are intended to aid chiropractic physicians individually and collectively in maintaining a high level of ethical conduct. These are standards by which a chiropractic physician may determine the propriety of the chiropractic physician’s conduct in the chiropractic physician’s relationship with patients, with colleagues, with members of allied professions, and with the public.

43.2(2) The principal objective of the chiropractic profession is to render service to humanity with full respect for the dignity of the person. Chiropractic physicians should merit the confidence of patients entrusted to their care, rendering to each a full measure of service and devotion.

43.2(3) Chiropractic physicians should strive continually to improve chiropractic knowledge and skill, and should make available to their patients and colleagues the benefits of their professional attainments.

43.2(4) A chiropractic physician should practice a method of healing founded on a scientific basis, and should not voluntarily associate professionally with anyone who violates this principle.

43.2(5) The chiropractic profession should safeguard the public and itself against chiropractic physicians deficient in moral character or professional competence. Chiropractic physicians should observe all laws, uphold the dignity and honor of the profession and accept its self-imposed disciplines. They should expose, without hesitation, illegal or unethical conduct of fellow members of the profession.

43.2(6) A chiropractic physician may choose whom to serve. In an emergency, however, services should be rendered to the best of the chiropractic physician’s ability. Having undertaken the case of a patient, the chiropractic physician may not neglect the patient; and, unless the patient has been discharged, the chiropractic physician may discontinue services only after giving adequate notice.

43.2(7) A chiropractic physician should not dispose of services under terms or conditions which tend to interfere with or impair the free and complete exercise of professional judgment and skill or tend to cause a deterioration of the quality of chiropractic care.

43.2(8) A chiropractic physician should seek consultation upon request, in doubtful or difficult cases, or whenever it appears that the quality of chiropractic service may be enhanced thereby.

43.2(9) A chiropractic physician may not reveal the confidences entrusted in the course of chiropractic attendance, or the deficiencies observed in the character of patients, unless required to do so by law or unless it becomes necessary in order to protect the welfare of the individual or of the community.

43.2(10) The honored ideals of the chiropractic profession imply that the responsibilities of the chiropractic physician extend not only to the individual, but also to society where these responsibilities deserve interest and participation in activities which have the purpose of improving both the health and well-being of the individual and the community.

645—43.3(151,514F) Utilization and cost control review.

43.3(1) Pursuant to Iowa Code section 514F.1, the board shall establish utilization and cost control review (UCCR) committee(s). A UCCR committee shall be established by approval of the board upon a showing that the committee meets the requirements of this rule. The name of each committee and a list of committee members shall be on file with the board and available to the public. As a condition of board approval, each committee shall agree to submit to the board an annual report which meets the requirements of this rule.

43.3(2) Each member of a UCCR committee shall:

- a. Hold a current license in Iowa.
- b. Have practiced chiropractic in the state of Iowa for a minimum of five years prior to appointment.
- c. Be actively involved in a chiropractic practice during the term of appointment as a UCCR committee member.
- d. Have no pending disciplinary action, no disciplinary action taken during the three years prior to appointment, and no disciplinary action pending or taken during the period of appointment.
- e. Have no malpractice judgment awarded or settlement paid during the three years prior to appointment or during the period of appointment.
- f. Not assist in the review or adjudication of claims in which the committee member may reasonably be presumed to have a conflict of interest.
- g. Rescinded IAB 5/10/06, effective 6/14/06.

43.3(3) Procedures for utilization and cost control review. A request for review may be made to the UCCR committee by any person governed by the various chapters of Title XIII, subtitle 1, of the Iowa Code, self-insurers for health care benefits to employees, other third-party payers, chiropractic patients or licensees.

a. There shall be a reasonable fee, as established by the UCCR committee and approved by the board, for services rendered, which will be made payable directly to the UCCR committee that conducts the review. Each UCCR committee approved by the board shall make a yearly accounting to the board.

b. A request for service shall be submitted to the executive director of the UCCR committee on a submission form approved by the board, and shall be accompanied by the number of copies required by the UCCR committee.

c. The UCCR committee shall respond in writing to the parties involved with its findings and recommendations within 90 days of the date the request for review was submitted. The committee shall review the appropriateness of levels of treatment and give an opinion as to the reasonableness of charges for diagnostic or treatment services rendered as requested.

43.3(4) Types of cases reviewed shall include:

- a. Utilization.
 - (1) Frequency of treatment;
 - (2) Amount of treatment;
 - (3) Necessity of service;
 - (4) Appropriateness of treatment.
- b. Usual and customary service.

43.3(5) Criteria for review may include but are not limited to:

- a. Was diagnosis compatible and consistent with information?

- b.* Were X-ray and other examination procedures adequate, or were they insufficient or unrelated to history or diagnosis?
- c.* Were clinical records adequate, complete, and of sufficient frequency?
- d.* Was treatment consistent with diagnosis?
- e.* Was treatment program consistent with scientific knowledge and with academic and clinical training provided in accredited chiropractic colleges?
- f.* Were charges reasonable and customary for the service?

43.3(6) Confidentiality. Members of the UCCR committee shall observe the requirements of confidentiality imposed by Iowa Code chapter 272C.

43.3(7) Annual report. Each UCCR committee shall annually submit a report to the board, and shall meet to review that report with the board chairperson or designee upon the board's request. The annual report shall include the following information:

- a.* The fee to be charged the party requesting UCCR review.
- b.* A report regarding the activities of the committee for the past year, including a report regarding each review conducted, the conclusions reached regarding that review, and any recommendations made following the review.

43.3(8) A conclusion or recommendation, or both, made by a UCCR committee does not constitute a decision of the board.

[ARC 3956C, IAB 8/15/18, effective 9/19/18]

645—43.4(151) Chiropractic insurance consultant.

43.4(1) A chiropractic insurance consultant advises insurance companies, third-party administrators and other similar entities of Iowa standards of (a) recognized and accepted chiropractic services and procedures permitted by the Iowa Code and administrative rules and (b) the propriety of chiropractic diagnosis and care.

43.4(2) All licensees who review chiropractic records for the purposes of determining the adequacy or sufficiency of chiropractic treatments, or the clinical indication for those treatments, shall indicate on their licensure renewals that they are engaged in those activities and the location where those activities are performed.

43.4(3) Licensed chiropractic physicians shall not hold themselves out as chiropractic insurance consultants unless they meet the following requirements:

- a.* Hold a current license in Iowa.
- b.* Have practiced chiropractic in the state of Iowa during the immediately preceding five years.
- c.* Are actively involved in a chiropractic practice during the term of appointment as a chiropractic insurance consultant. Active practice includes but is not limited to maintaining an office location and providing clinical care to patients.

[ARC 3956C, IAB 8/15/18, effective 9/19/18]

645—43.5(151) Acupuncture. A chiropractic physician who engages in the practice of acupuncture shall maintain documentation that shows the chiropractic physician has successfully completed a course in acupuncture consisting of at least 100 hours of traditional, in-person classroom instruction with the instructor on site. The licensee shall maintain a transcript or certification of completion showing the licensee's name, school or course sponsor's name, date of course completion or graduation, grade or other evidence of successful completion, and number of course hours. The licensee shall provide the transcript or certification of completion to the board upon request.

[ARC 9109B, IAB 10/6/10, effective 11/10/10]

645—43.6(151) Nonprofit nutritional product sales. Rescinded IAB 11/26/03, effective 12/31/03.

645—43.7(151) Adjunctive procedures.

43.7(1) Adjunctive procedures are defined as procedures related to differential diagnosis.

43.7(2) For any applicant for licensure to practice chiropractic in the state of Iowa who chooses to be tested in limited adjunctive procedures, those limited procedures must be adequate for the applicant to come to a differential diagnosis in order to pass the examination.

43.7(3) Applicants for licenses to practice chiropractic who refuse to utilize any of the adjunctive procedures which they have been taught in approved colleges of chiropractic must adequately show the board that they can come to an adequate differential diagnosis without the use of adjunctive procedures.

645—43.8(151) Physical examination. The chiropractic physician is to perform physical examinations to determine human ailments, or the absence thereof, utilizing principles taught by chiropractic colleges. Physical examination procedures shall not include prescription drugs or operative surgery.

645—43.9(151) Gonad shielding. Gonad shielding of not less than 0.25 millimeter lead equivalent shall be used for chiropractic patients who have not passed the reproductive age during radiographic procedures in which the gonads are in the useful beam, except for cases in which this would interfere with the diagnostic procedures.

645—43.10(151) Record keeping.

43.10(1) Chiropractic physicians shall maintain clinical records in a manner consistent with the protection of the welfare of the patient. Records shall be timely, dated, chronological, accurate, signed or initialed, legible, and easily understandable. Record-keeping rules apply to all patient records whether handwritten, typed or maintained electronically. Electronic signatures are acceptable when the record has been reviewed by the physician whose signature appears on the record.

43.10(2) Chiropractic physicians shall maintain clinical records for each patient. The clinical records shall, at a minimum, include all of the following:

a. Personal data.

- (1) Name;
- (2) Date of birth;
- (3) Address; and
- (4) Name of parent or guardian if a patient is a minor.

b. Health history. Records shall include information from the patient or the patient's parent or guardian regarding the patient's health history.

c. Patient's reason for visit. When a patient presents with a chief complaint, clinical records shall include the patient's stated health concerns.

d. Clinical examination progress notes. Records shall include chronological dates and descriptions of the following:

- (1) Clinical examination findings, tests conducted, a summary of all pertinent diagnoses, and updated health assessments;
- (2) Plan of intended treatment, including description of treatment, frequency and duration;
- (3) Services rendered and any treatment complications;
- (4) All testing ordered or performed;
- (5) Diagnostic imaging report if imaging procedure is ordered or performed;
- (6) Sufficient data to support the recommended treatment plan.

e. Clinical record. Each page of the clinical record shall include the patient's name, the date information was recorded and the doctor's name or facility's name.

43.10(3) Retention of records. A chiropractic physician shall maintain a patient's record(s) for a minimum of six years after the date of last examination or treatment. Records for minors shall be maintained for one year after the patient reaches the age of majority (18) or six years after the date of last examination or treatment, whichever is longer. Proper safeguards shall be maintained to ensure the safety of records from destructive elements. This provision includes both clinical and fiscal records.

43.10(4) Electronic record keeping. When electronic records, which include both electronically created records and scanned paper records, are utilized, a chiropractic physician shall maintain either a duplicate hard-copy record or a backup electronic record.

43.10(5) Correction of written records. Notations shall be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line. Entries recorded at a time other than the date of the patient encounter must include the date of the entry and the initials of the author.

43.10(6) Correction of electronic records. Any alterations made after the date of service shall be visibly recorded. All alterations shall include a notation setting forth the date of alteration and identification of the author. Entries recorded at a time other than the date of the patient encounter must include the date of the entry and the initials of the author.

43.10(7) Abbreviations shall be standard and common to all health care disciplines. Nonstandard abbreviations shall be referenced with a key that is included in the record when the record is requested.

43.10(8) Confidentiality and transfer of records. Chiropractic physicians shall preserve the confidentiality of patient records. Upon signed request of the patient, the chiropractic physician shall furnish such records or copies of the records as directed by the patient within 30 days. A notation indicating the items transferred, date of transfer and method of transfer shall be maintained in the patient record. The chiropractic physician may charge a reasonable fee for duplication of records but may not refuse to transfer records for nonpayment of any fees. A written request may be required before the transfer of the record(s), including, for example, compliance with HIPAA regulations. In certain instances, a summary of the record may be more beneficial for the future treatment of the patient; however, if a third party requests copies of the original documentation, that request must be honored.

43.10(9) Retirement or discontinuance of practice. A licensee, upon retirement, discontinuation of the practice of chiropractic, leaving a practice, or moving from a community, shall:

a. Notify all active patients, in writing and by publication, once a week for three consecutive weeks in a newspaper of general circulation in the community. The notification shall include the following information:

(1) That the licensee intends to discontinue the practice of chiropractic in the community and that patients are encouraged to seek the services of another licensee; and

(2) How patients can obtain their records, including the name and contact information of the records custodian.

b. Make reasonable arrangements with active patients for the transfer of patient records, or copies of those records, to the succeeding licensee.

c. For the purposes of this subrule, “active patient” means a person whom the licensee has examined, treated, cared for, or otherwise consulted with during the one-year period prior to retirement, discontinuation of the practice of chiropractic, leaving a practice, or moving from a community.

43.10(10) Record-keeping procedures and standards shall be utilized for all individuals who receive treatment from a chiropractic physician in all sites where care is provided.

43.10(11) A chiropractic physician who offers a prepayment plan for chiropractic services shall:

a. Have a written prepayment policy statement that is maintained in the office and available to patients upon request. The policy statement, at a minimum, shall include provisions that:

(1) Prepaid funds will not be expended until services are provided; and

(2) The patient shall receive a prompt refund of any unused funds upon request. The refund shall be calculated based on a defined method, which shall be clearly set forth in the written prepayment policy statement.

b. Require the patient to sign and date a prepayment document that incorporates the conditions and descriptions of the written prepayment policy statement.

c. Maintain the signed and dated written prepayment policy statement in the patient’s record.

[ARC 9109B, IAB 10/6/10, effective 11/10/10; ARC 3956C, IAB 8/15/18, effective 9/19/18]

645—43.11(151) Billing procedures.

43.11(1) Chiropractic physicians shall maintain accurate billing records for each patient. Records may be stored on paper or electronically. The records shall contain all of the following:

a. Name, date of birth and address.

b. Diagnosis indicated with description or ICD code.

- c. Services provided with description or CPT code.
- d. Dates of services provided.
- e. Charges for each service provided.
- f. Payments made for each service and indication of the party providing payment.
- g. Dates payments are made.
- h. Balance due for any outstanding charges.

43.11(2) Chiropractic physicians shall preserve the confidentiality of billing records.

43.11(3) Upon signed request of the patient, the chiropractic physician shall furnish billing records or copies of the records as directed by the patient within 30 days. The chiropractic physician may charge a reasonable fee for duplication of records, but may not refuse to transfer records for nonpayment of any fees.

43.11(4) Each chiropractic physician is responsible for the accuracy and validity of billings submitted under the chiropractic physician's name.

43.11(5) Chiropractic physicians:

a. Who are owners, operators, members, partners, shareholders, officers, directors, or managers of a chiropractic clinic will be responsible for the policies, procedures and billings generated by the clinic.

b. Who provide clinical services are required to familiarize themselves with the clinic's billing practices to ensure that the services rendered are accurately reflected in the billings generated. In the event an error occurs which results in an overbilling, the licensee must promptly make reimbursement of the overbilling whether or not the licensee is in any way compensated for such reimbursement by an employer, agent or any other individual or business entity responsible for such error.

43.11(6) A chiropractic physician has a right to review and correct all billings submitted under the chiropractic physician's name or identifying number(s). Signature stamps or electronically generated signatures shall be utilized only with the authorization of the chiropractic physician whose name or signature is designated. Such authorization may be revoked at any time in writing by the chiropractic physician.

43.11(7) Chiropractic physicians shall not knowingly:

- a. Increase charges when a patient utilizes a third-party payment program.
- b. Report incorrect dates or types of service on any billing documents.
- c. Submit charges for services not rendered.
- d. Submit charges for services rendered which are not documented in a patient's record.
- e. Bill patients or make claims under a third-party payer contract for chiropractic services that have not been performed.
- f. Bill patients or make claims under a third-party payer contract in a manner which misrepresents the nature of the chiropractic services that have been performed.

43.11(8) For cases not involving third-party payers, nothing in this rule shall prevent a chiropractic physician from providing a fee reduction for reasonable time of service or substantiated hardship cases. The chiropractic physician shall document time of service or hardship case fee reduction provisions in the patient record.

43.11(9) The chiropractic physician shall not enter into an agreement to waive, abrogate, or rebate the deductible or copayment amounts of any third-party payer contract by forgiving any or all of any patient's obligation for payment thereunder, except in substantiated hardship cases, unless the third-party payer is notified in writing of the fact of such waiver, abrogation, rebate, or forgiveness in accordance with the third-party payer contract. The chiropractic physician shall document any hardship case fee reduction provisions in the patient record.

645—43.12(151) Chiropractic assistants. The requirements of this rule shall become effective on July 1, 2009.

43.12(1) *Supervisory responsibilities of the chiropractic physician.*

a. The supervising chiropractic physician shall ensure at all times that the chiropractic assistant has the necessary training and skills as required by these rules to competently perform the delegated services.

b. The supervising chiropractic physician may delegate services to a chiropractic assistant that are within the scope of practice of the chiropractic physician in a manner consistent with these rules. Violation of these rules shall be grounds for discipline under 645—Chapter 45.

c. A chiropractic physician shall not delegate to the chiropractic assistant the following:

- (1) Services outside the chiropractic physician's scope of practice;
- (2) Initiation, alteration, or termination of chiropractic treatment programs;
- (3) Chiropractic manipulation and adjustments;
- (4) Diagnosis of a condition.

d. A supervising chiropractic physician shall ensure that a chiropractic assistant is informed of the supervisor and chiropractic assistant relationship and is responsible for all services performed by the chiropractic assistant.

43.12(2) Education requirements for chiropractic assistants.

a. The supervising chiropractic physician shall ensure that a chiropractic assistant has completed a chiropractic assistant training program. A chiropractic assistant training program shall include training and instruction on the use of chiropractic physiotherapy procedures related to services to be provided by the chiropractic assistant. Any chiropractic assistant training program shall be provided by an approved CCE-accredited chiropractic college or a chiropractic state association.

b. Chiropractic assistants performing active chiropractic physiotherapy procedures are required to complete 12 hours of instruction, of which 6 hours shall be clinical experience under the supervision of the chiropractic physician.

c. Chiropractic assistants performing passive chiropractic physiotherapy procedures are required to complete 12 hours of instruction, of which 6 hours shall be clinical experience under the supervision of the chiropractic physician.

d. If both paragraphs "b" and "c" apply, then 12 hours of instruction for active chiropractic physiotherapy procedures and 12 hours of instruction for passive chiropractic physiotherapy procedures shall be required for a total of 24 hours of instruction.

e. The supervising chiropractic physician shall provide a written attestation to the chiropractic college that the chiropractic assistant has completed the clinical experience. The college shall issue a separate certificate of completion for the active or passive chiropractic training program as defined in paragraphs "b," "c" and "d" of this subrule.

f. The chiropractic physician shall maintain in the chiropractic physician's primary place of business proof of the chiropractic assistant's completion of the training program. Copies of such documents shall be provided to the board upon request.

[ARC 0006C, IAB 2/8/12, effective 3/14/12]

These rules are intended to implement Iowa Code chapters 147, 151, 272C and 514F.

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CHAPTER 44
CONTINUING EDUCATION FOR CHIROPRACTIC PHYSICIANS
[Prior to 7/24/02, see 645—Ch 43]

645—44.1(151) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the Iowa board of chiropractic.

“*Clinical case management*” means coursework pertaining to diagnosis, treatment, and appropriate referral or coordination of care.

“*Continuing education*” means planned, organized learning acts meeting the standards set forth in these rules, acquired during licensure, and designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of chiropractic practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest and certificate of completion.

“*License*” means license to practice chiropractic in Iowa.

“*Licensee*” means any person licensed to practice as a chiropractic physician in Iowa.

[ARC 9109B, IAB 10/6/10, effective 11/10/10; ARC 3962C, IAB 8/15/18, effective 9/19/18]

645—44.2(272C) Continuing education requirements.

44.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 of each even-numbered year and ending on June 30 of each even-numbered year two years later. Starting with the 2018-2020 biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 40 hours of continuing education approved by the board.

44.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses with the exception of two hours in the content areas of 645—Chapters 41 through 45 and Iowa Code chapter 151. Continuing education hours acquired anytime from the initial licensing until the second license renewal, with the exception of two hours in the content areas of 645—Chapters 41 through 45 and Iowa Code chapter 151, may be used. The new licensee will be required to complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal.

44.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

44.2(4) No hours of continuing education shall be carried over into the next biennium except as stated in 44.2(2) and 44.3(2)“a”(3). A licensee whose license is reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

44.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

[ARC 3962C, IAB 8/15/18, effective 9/19/18]

645—44.3(151,272C) Standards.

44.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters which integrally relate to the practice of the profession;
- c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;
- d. Fulfills stated program goals, objectives, or both; and
- e. Provides proof of attendance to licensees in attendance including:
 - (1) Date(s), location, course title, presenter(s);
 - (2) Number of program clock hours; and
 - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

44.3(2) *Specific criteria.*

- a. Continuing education hours of credit shall be obtained by completing:
 - (1) At least 36 hours of continuing education credit obtained from a program that directly relates to clinical case management of chiropractic patients. At least 20 of these hours shall be earned by completing a program in which an instructor conducts the class by employing a traditional in-person, classroom-type presentation and the licensee is in attendance in the same room as that instructor. The remaining 16 hours of continuing education credit relating to clinical case management of chiropractic patients may be obtained by independent study, including any online instruction, that complies with conditions specified in 44.3(1).
 - (2) A minimum of two hours per biennium in professional boundaries regarding ethical issues related to professional conduct that may include but are not limited to sexual harassment, sensitivity training and ethics.
 - (3) A minimum of 12 hours per biennium of continuing education in the field of acupuncture if the chiropractic physician is engaged in the practice of acupuncture. Chiropractic physicians not engaged in the active practice of acupuncture may take continuing education hours in the field of acupuncture for continuing education credit.
 - (4) Classes on child abuse and dependent adult abuse that meet the criteria in 645—subrules 41.8(4) and 44.3(1).
 - (5) Two hours of continuing education credit at the time of the first biennial renewal period and one hour every biennial renewal period after that in the content areas of the administrative rules related to chiropractic physicians in Iowa, found at 645—Chapters 41 through 45 and the statutory provisions specific to the practice of chiropractic in Iowa, found at Iowa Code chapter 151.
- b. Continuing education hours of credit may be obtained by:
 - (1) Teaching at a Council on Chiropractic Education (CCE)-approved program or board of chiropractic-approved institution. A maximum of 15 hours per biennium may be obtained for each course taught.
 - (2) Completing electronically transmitted programs/activities or independent study programs/activities that have a certificate of completion.
 - (3) A licensee who is a presenter of a continuing education program may receive credit once per biennium for the initial presentation of the program.
 - (4) Completing a program provided by a CCE-accredited chiropractic college in the United States, the Iowa Chiropractic Society, American Chiropractic Association or International Chiropractors Association.
 - (5) Completing continuing education courses/programs that are certified by the Providers of Approved Continuing Education (PACE) through the Federation of Chiropractic Licensing Boards (FCLB).
 - (6) Proctoring at the NBCE examination. Fifteen hours of continuing education hours per NBCE examination event may be claimed up to a maximum of 30 hours of continuing education credit per biennium. The proctoring hours may apply toward the clinical requirement.

c. Continuing education may not be obtained by completing or teaching classes in basic anatomy and physiology or undergraduate level coursework.

44.3(3) Specific criteria for presenters. All instructors/presenters of a continuing education activity must include, as part of the continuing education activity, verbal and written statements to the participants regarding any affiliations or employment relationships with any entity promoting, developing or marketing products, services, procedures or treatment methods.

[ARC 9109B, IAB 10/6/10, effective 11/10/10; ARC 0211C, IAB 7/25/12, effective 8/29/12; ARC 1201C, IAB 12/11/13, effective 1/15/14; ARC 2202C, IAB 10/14/15, effective 11/18/15; ARC 3962C, IAB 8/15/18, effective 9/19/18]

645—44.4(151,272C) Audit of continuing education report. Rescinded IAB 8/13/08, effective 9/17/08.

645—44.5(151,272C) Automatic exemption. Rescinded IAB 8/13/08, effective 9/17/08.

645—44.6(272C) Continuing education exemption for disability or illness. Rescinded IAB 8/13/08, effective 9/17/08.

645—44.7(151,272C) Grounds for disciplinary action. Rescinded IAB 8/13/08, effective 9/17/08.

645—44.8(272C) Continuing education exemption for inactive practitioners. Rescinded IAB 8/3/05, effective 9/7/05.

645—44.9(272C) Continuing education exemption for disability or illness. Rescinded IAB 8/3/05, effective 9/7/05.

645—44.10(272C) Reinstatement of inactive practitioners. Rescinded IAB 8/3/05, effective 9/7/05.

645—44.11(272C) Hearings. Rescinded IAB 8/3/05, effective 9/7/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 151.

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CHAPTER 45
DISCIPLINE FOR CHIROPRACTIC PHYSICIANS
[Prior to 7/24/02, see 645—Ch 44]

645—45.1(151) Definitions.

“*Board*” means the board of chiropractic.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means a person licensed to practice as a chiropractic physician in Iowa.

645—45.2(151,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—45.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

45.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or

b. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

45.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other chiropractic physicians in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average chiropractic physician acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of a chiropractic physician in this state.

e. Inability to practice with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

45.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. This includes representations utilizing the term “physical therapy” when informing the public of the services offered by the chiropractic physician unless a licensed physical therapist is performing such services. Nothing herein shall be construed as prohibiting a chiropractic physician from making representations regarding physiotherapy that may be the same as, or similar to, physical therapy or physical medicine as long as treatment is appropriate as authorized in Iowa Code chapter 151. Proof of actual injury need not be established.

45.2(4) Practice outside the scope of the profession.

45.2(5) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation or representations that are likely to cause the average person to misunderstand.

45.2(6) Habitual intoxication or addiction to the use of drugs.

45.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

45.2(8) Falsification of client records.

45.2(9) Acceptance of any fee by fraud or misrepresentation.

45.2(10) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

45.2(11) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

45.2(12) Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of the profession.

45.2(13) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report in writing to the board revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

45.2(14) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the practice of the profession in another state, district, territory or country.

45.2(15) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

45.2(16) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

45.2(17) Engaging in any conduct that subverts or attempts to subvert a board investigation.

45.2(18) Failure to comply with a subpoena issued by the board, or otherwise fail to cooperate with an investigation of the board.

45.2(19) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

45.2(20) Failure to pay costs assessed in any disciplinary action.

45.2(21) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

45.2(22) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

45.2(23) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice as a chiropractic physician.

45.2(24) Failure to report a change of name or address within 30 days after it occurs.

45.2(25) Representing oneself as a chiropractic physician when one's license has been suspended or revoked, or when one's license is on inactive status.

45.2(26) Permitting another person to use the licensee's license for any purposes.

45.2(27) Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.

45.2(28) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but need not be limited to, the following:

- a. Verbally or physically abusing a patient, client or coworker.
- b. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker, regardless of the patient's, client's, or coworker's consent.
- c. Betrayal of a professional confidence.
- d. Engaging in a professional conflict of interest.
- e. Engaging in a sexual or emotional relationship with a former patient when there is a risk of exploitation or harm to the patient, regardless of patient consent.
- f. Failing to terminate the doctor-patient relationship before dating or having a sexual relationship with a patient. Such termination shall be done in writing and signed by both the patient and the

chiropractic physician and placed in the patient's record. This paragraph shall not apply to a chiropractic physician who is treating the chiropractic physician's spouse or to a sexual relationship that predates the initiation of the doctor-patient relationship. Further, a chiropractic physician shall not have consensual sexual relations with a former patient until three months after the termination of the doctor-patient relationship.

45.2(29) Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

45.2(30) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

45.2(31) Unprofessional conduct or behavior. A chiropractor shall not exhibit unprofessional behavior in connection with the practice of chiropractic. Unprofessional behavior shall include, but not be limited to, the following acts: verbal abuse, coercion, intimidation, harassment, sexual advances, threats, degradation of character, indecent or obscene conduct, requesting patient records without a medical justification, and theft.

45.2(32) Failure to respond within 30 days of receipt of communication from the board which was sent by registered or certified mail.

45.2(33) Failure to maintain a patient's record(s) for a minimum of six years after the date of last examination or treatment. Records for minors shall be maintained for one year after the patient reaches the age of majority (18) or six years after the date of last examination or treatment, whichever is longer. Proper safeguards shall be maintained to ensure the safety of records from destructive elements. This provision includes both clinical and fiscal records.

[ARC 8625B, IAB 3/24/10, effective 4/28/10; ARC 9109B, IAB 10/6/10, effective 11/10/10; ARC 9862B, IAB 11/16/11, effective 12/21/11; ARC 2202C, IAB 10/14/15, effective 11/18/15; ARC 3956C, IAB 8/15/18, effective 9/19/18]

645—45.3(147,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed \$1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—45.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—45.5(151) Order for mental, physical, or clinical competency examination or alcohol or drug screening. Rescinded IAB 8/13/08, effective 9/17/08.

These rules are intended to implement Iowa Code chapters 147, 151 and 272C.

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TITLE I
GENERAL PROVISIONSCHAPTER 1
ADMINISTRATION

[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—1.1(153) Definitions. As used in these rules:

“Accredited school” means a dental, dental hygiene, or dental assisting education program accredited by the American Dental Association Commission on Dental Accreditation.

“Board” means the board of dental examiners.

“Chapter” means Iowa Code chapter 153.

“Coronal polish” means an adjunctive procedure that must also include removal of any calculus, if present, by a dentist or dental hygienist. Coronal polishing of teeth using only a rotary instrument and a rubber cup or brush for such purpose, when performed at the direction of and under the supervision of a licensed dentist, is deemed not to be the giving of prophylactic treatment.

“Dental hygiene committee,” as defined in Iowa Code section 153.33A, means the dental hygiene committee of the board of dental examiners.

“Department” means the department of public health.

“Direct supervision” means that the dentist is present in the treatment facility, but it is not required that the dentist be physically present in the treatment room.

“General supervision of a dental assistant” means that a dentist has examined the patient and has delegated the services to be provided by a registered dental assistant, which are limited to all extraoral duties, dental radiography, intraoral suctioning, and use of a curing light and intraoral camera. The dentist need not be present in the facility while these services are being provided.

“General supervision of a dental hygienist” means that a dentist has examined the patient and has prescribed authorized services to be provided by a dental hygienist. The dentist need not be present in the facility while these services are being provided. If a dentist will not be present, the following requirements shall be met:

1. Patients or their legal guardians must be informed prior to the appointment that no dentist will be present and therefore no examination will be conducted at that appointment.
2. The hygienist must consent to the arrangement.
3. Basic emergency procedures must be established and in place and the hygienist must be capable of implementing these procedures.
4. The treatment to be provided must be prior prescribed by a licensed dentist and must be entered in writing in the patient record.

“Inactive status” means the status of a practitioner licensed or registered pursuant to Iowa Code chapter 153 who is not currently engaged in the practice of dentistry, dental hygiene, or dental assisting in the state of Iowa and who has paid the required renewal fee but who has not met the requirements for continuing education.

“Lapsed license,” “permit,” or “registration” means a license, permit, or registration that a person has failed to renew as required or the license, permit, or registration of a person who failed to meet stated obligations for renewal within a stated time. A person whose license, permit, or registration has lapsed continues to hold the privilege of licensure or registration in Iowa, but may not practice dentistry, dental hygiene, or dental assisting until the license, permit, or registration is reinstated.

“License” means a certificate issued to a person to practice as a dentist or dental hygienist under the laws of this state.

“Licensee” means a person who has been issued a certificate to practice as a dentist or dental hygienist under the laws of this state.

“Overpayment” means payment in excess of the required fee. Overpayment shall result in the return of the original request and payment, prior to processing, with a clarification of the total amount due.

“Peer review” as defined in Iowa Code section 272C.1(7) means evaluation of professional services rendered by a licensee or registrant.

“Peer review committee” as defined in Iowa Code section 272C.1(8) means one or more persons acting in a peer review capacity pursuant to these rules.

“Personal supervision” means the dentist is physically present in the treatment room to oversee and direct all intraoral or chairside services of the dental assistant trainee and a licensee or registrant is physically present to oversee and direct all extraoral services of the dental assistant.

“Practice of dentistry” as defined in Iowa Code section 153.13 includes the rendering of professional services in this state as an employee or independent contractor or the rendering of any dental decisions, including diagnosing, treatment planning, determining the appropriateness of proposed dental care, or engaging in acts that constitute the practice of dentistry.

The following classes of persons shall also be deemed to be engaged in the practice of dentistry:

1. Persons publicly professing to be dentists, dental surgeons, or skilled in the science of dentistry, or publicly professing to assume the duties incident to the practice of dentistry.

2. Persons who perform examinations, diagnosis, treatment, and attempted correction by any medicine, appliance, surgery, or other appropriate method of any disease, condition, disorder, lesion, injury, deformity, or defect of the oral cavity and maxillofacial area, including teeth, gums, jaws, and associated structures and tissue, which methods by education, background, experience, and expertise are common to the practice of dentistry.

3. Persons who offer to perform, perform, or assist with any phase of any operation incident to tooth whitening, including the instruction or application of tooth whitening materials or procedures at any geographic location. For purposes of this paragraph, “tooth whitening” means any process to whiten or lighten the appearance of human teeth by the application of chemicals, whether or not in conjunction with a light source.

“Registrant” means a person who has been issued a certificate to practice as a dental assistant under the laws of this state.

“Registration” means a certificate issued to a person to practice as a dental assistant under the laws of this state.

This rule is intended to implement Iowa Code sections 147.1(2), 147.13, 147.30, 147.76, 147.80, 153.13 and 153.15, and chapter 272C.

[ARC 8369B, IAB 12/16/09, effective 1/20/10; ARC 2030C, IAB 6/10/15, effective 7/15/15; ARC 3963C, IAB 8/15/18, effective 9/19/18]

650—1.2(17A,147,153,272C) Purpose of the board. The purpose of the board is to protect public health, safety, and welfare by administering, interpreting, and enforcing the provisions of law that relate to the practice of dentistry, dental hygiene, and dental assisting. In pursuit of this mission, the board performs these primary functions:

1.2(1) Administers examinations for the testing of dentists, dental hygienists, and dental assistants;

1.2(2) Issues licenses, registrations, certificates, and permits to qualified practitioners;

1.2(3) Sets standards for license, registration, and permit renewal and continuing education;

1.2(4) Enforces Iowa laws regulating the practice of dentistry, dental hygiene, and dental assisting;

1.2(5) Investigates complaints concerning violations of the dental practice Act and rules;

1.2(6) Conducts disciplinary hearings and monitors the compliance of licensees or registrants with board orders; and

1.2(7) Adopts rules and establishes standards for practitioners pursuant to its authority under the Iowa Code and administrative rules.

650—1.3(17A,147,153) Organization of the board.

1.3(1) The board shall be composed of five members licensed to practice dentistry, two members licensed to practice dental hygiene and two members not licensed to practice dentistry or dental hygiene and who shall represent the general public. All members are appointed by the governor, subject to confirmation by the senate.

1.3(2) Five members of the board shall constitute a quorum for the purpose of conducting business.

1.3(3) The dental hygiene committee of the board shall be composed of the two dental hygiene members of the board and one dentist member of the board. The dentist member will be elected annually

to serve on the committee by a majority vote of the board. The dentist member of the committee must have supervised and worked in collaboration with a dental hygienist for a period of at least three years immediately preceding election to the committee.

1.3(4) Two members of the dental hygiene committee shall constitute a quorum for the purpose of conducting business.

1.3(5) Committees of the board may be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons. Committees of the board may include the executive committee, licensure committee, grievance committee, continuing education advisory committee, and dental assistant committee.

650—1.4(153) Organization of the dental hygiene committee.

1.4(1) All matters regarding the practice, discipline, education, examination, and licensure of dental hygienists will be initially directed to the dental hygiene committee. The committee shall have the authority to adopt recommendations regarding the practice, discipline, education, examination, and licensure of dental hygienists and shall carry out duties as assigned by the board. Recommendations by the committee shall include a statement and documentation supporting its recommendation to the board. The board shall review all committee recommendations. The recommendations shall be ratified by the board unless the board makes a specific written finding that the recommendation exceeds the jurisdiction or expands the scope of the committee beyond the authority granted in subrule 1.4(2), creates an undue financial impact on the board, or is not supported by the record. The board may not amend a committee recommendation without the concurrence of the majority of the members of the dental hygiene committee.

1.4(2) This rule shall not be construed as impacting or changing the scope of practice of the profession of dental hygiene or authorizing the independent practice of dental hygiene.

1.4(3) The committee shall not have regulatory or disciplinary authority with regard to dentists, dental assistants, dental lab technicians, or other auxiliary dental personnel.

This rule is intended to implement Iowa Code section 153.33A.

650—1.5(17A,153) Information. Members of the public may obtain information from or submit requests relating to the practice of dentistry, dental hygiene, or dental assisting, continuing education, or any other matter to the Executive Director, Iowa Board of Dental Examiners, 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687.

650—1.6(17A,147,153) Meetings.

1.6(1) The board shall hold an annual meeting each year in Des Moines to elect officers and conduct other business. Officers of the board shall consist of a chairperson, vice chairperson, and secretary. Officers shall assume their duties immediately following their election at the annual meeting.

1.6(2) The board may hold additional meetings as the chairperson, vice chairperson, or majority of the board deems necessary. Written notices stating the time and place of the meetings shall be provided consistent with the open meetings law.

1.6(3) The dental hygiene committee shall hold an annual meeting each year in Des Moines, Iowa, to elect officers and conduct other business. Officers of the committee shall consist of a chairperson, vice chairperson, and secretary. Officers shall assume their duties immediately following their election at the annual meeting.

1.6(4) The dental hygiene committee may hold additional meetings as the chairperson, vice chairperson, or majority of the committee deems necessary.

1.6(5) Dates and location of board meetings may be obtained from the board's office. Except as otherwise provided by statute, all board meetings shall be open and the public shall be permitted to attend.

These rules are intended to implement Iowa Code sections 17A.3, 147.14(4), 147.22, and 153.33A(1).

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CHAPTER 11
LICENSURE TO PRACTICE DENTISTRY OR DENTAL HYGIENE
[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—11.1(147,153) Applicant responsibilities. An applicant for dental or dental hygiene licensure bears full responsibility for each of the following:

1. Paying all fees charged by regulatory authorities, national testing or credentialing organizations, health facilities, and educational institutions providing the information required to complete a license or permit application; and

2. Providing accurate, up-to-date, and truthful information on the application form including, but not limited to, prior professional experience, education, training, examination scores, and disciplinary history.

3. Submitting complete application materials. An application for a license, permit, or registration or reinstatement of a license or registration will be considered active for 180 days from the date the application is received. For purposes of establishing timely filing, the postmark on a paper submittal will be used, and for applications submitted online, the electronic timestamp will be deemed the date of filing. If the applicant does not submit all materials, including a completed fingerprint packet, within this time period or if the applicant does not meet the requirements for the license, permit, registration or reinstatement, the application shall be considered incomplete. An applicant whose application is filed incomplete must submit a new application and application fee.

[ARC 9218B, IAB 11/3/10, effective 12/8/10; ARC 0265C, IAB 8/8/12, effective 9/12/12]

650—11.2(147,153) Dental licensure by examination.

11.2(1) Applications for licensure by examination to practice dentistry in this state shall be made on the form provided by the board and must be completely answered, including required credentials and documents. An applicant who has held a dental license issued in another state for one year or longer must apply for licensure by credentials pursuant to rule 650—11.3(153).

11.2(2) Applications for licensure must be filed with the board along with:

a. Documentation of graduation from dental college. Satisfactory evidence of graduation with a DDS or DMD from an accredited dental college approved by the board or satisfactory evidence of meeting the requirements specified in rule 650—11.4(153).

b. Certification of good standing from dean or designee. Certification by the dean or other authorized representative of the dental school that the applicant has been a student in good standing while attending that dental school.

c. Documentation of passage of national dental examination. Evidence of attaining a grade of at least 75 percent on the examination administered by the Joint Commission on National Dental Examinations.

d. Documentation of passage of a clinical examination.

(1) Successful passage of a board-approved clinical examination within the previous five-year period with a grade of at least 75 percent.

(2) The following 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).

(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. Explanation of any legal or administrative actions. A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges.

f. Payment of application, fingerprint and background check fees. The nonrefundable application fee, plus the fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), as specified in 650—Chapter 15.

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

h. Current CPR certification. A statement:

- (1) Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a “hands-on” clinical component;
- (2) Providing the expiration date of the CPR certificate; and
- (3) Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

i. Completed fingerprint packet. A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.

11.2(3) The board may require a personal appearance or any additional information relating to the character, education and experience of the applicant.

11.2(4) Applications must be signed and verified as to the truth of the statements contained therein.

This rule is intended to implement Iowa Code sections 147.3, 147.29, and 147.34.

[**ARC 9218B**, IAB 11/3/10, effective 12/8/10; **ARC 9510B**, IAB 5/18/11, effective 6/22/11; **ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 2870C**, IAB 12/21/16, effective 1/25/17; **ARC 3488C**, IAB 12/6/17, effective 1/10/18]

650—11.3(153) Dental licensure by credentials.

11.3(1) Applications for licensure by credentials to practice dentistry in this state shall be made on the form provided by the board and must be completely answered, including required credentials and documents.

11.3(2) Applications must be filed with the board along with:

a. Satisfactory evidence of graduation with a DDS or DMD from an accredited dental college approved by the board or satisfactory evidence of meeting the requirements specified in rule 650—11.4(153).

b. Evidence of attaining a grade of at least 75 percent on 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 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. A statement of any dental examinations taken by the applicant, with indication of pass/fail for each examination taken. Any dentist who has lawfully practiced dentistry in another state or territory for five or more years may be exempted from presenting this evidence.

d. Evidence of a current, valid license to practice dentistry in another state, territory or district of the United States issued under requirements equivalent or substantially equivalent to those of this state.

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 a board-approved clinical examination 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 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. Evidence from the state board of dentistry, or equivalent authority, from each state in which applicant has been licensed to practice dentistry, that the applicant has not been the subject of final or pending disciplinary action.

g. A statement disclosing and explaining any disciplinary actions, investigations, malpractice claims, complaints, judgments, settlements, or criminal charges, including the results of a self-query of the National Practitioner Data Bank (NPDB).

h. The nonrefundable application fee for licensure by credentials, plus the fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), as specified in 650—Chapter 15.

i. Current CPR certification. A statement:

(1) Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a “hands-on” clinical component;

(2) Providing the expiration date of the CPR certificate; and

(3) Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

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

k. A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.

11.3(3) The board may require a personal appearance or may require any additional information relating to the character, education, and experience of the applicant.

11.3(4) The board may also require such examinations as may be necessary to evaluate the applicant for licensure by credentials.

11.3(5) Applications must be signed and verified attesting to the truth of the statements contained therein.

This rule is intended to implement Iowa Code chapters 147 and 153.

[**ARC 9218B**, IAB 11/3/10, effective 12/8/10; **ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 2870C**, IAB 12/21/16, effective 1/25/17; **ARC 3488C**, IAB 12/6/17, effective 1/10/18]

650—11.4(153) Graduates of foreign dental schools. In addition to meeting the other requirements for licensure specified in rule 650—11.2(147,153) or 650—11.3(153), an applicant for dental licensure who did not graduate with a DDS or DMD from an accredited dental college approved by the board must provide satisfactory evidence of meeting the following requirements.

11.4(1) The applicant must complete a full-time dental education program at an accredited dental college. The program must consist of either:

a. An undergraduate supplemental dental education program of at least two academic years. The undergraduate supplemental dental education program must provide didactic and clinical education to the level of a DDS or DMD graduate of the accredited dental college; or

b. A postgraduate general practice residency program of at least one academic year.

11.4(2) The applicant must receive a dental diploma, degree or certificate from the accredited dental college upon successful completion of the program.

11.4(3) The applicant must present to the board the following documents:

a. Satisfactory evidence of completion of board-approved dental education at an accredited dental college;

b. A final, official transcript verifying graduation from the foreign dental school at which the applicant originally obtained a dental degree. If the transcript is written in a language other than English, an original, official translation shall also be submitted; and

c. Verification from the appropriate governmental authority that the applicant was licensed or otherwise authorized by law to practice dentistry in the country in which the applicant received foreign dental school training and that no adverse action was taken against the license.

11.4(4) The applicant must demonstrate to the satisfaction of the board an ability to read, write, speak, understand, and be understood in the English language. The applicant may demonstrate English proficiency by submitting to the board evidence of achieving a score sufficient to be rated in the highest level of ability on each section of the Test of English as a Foreign Language (TOEFL) as administered by the Educational Testing Service (ETS).

This rule is intended to implement Iowa Code chapters 147 and 153.
[ARC 3961C, IAB 8/15/18, effective 9/19/18]

650—11.5(147,153) Dental hygiene licensure by examination.

11.5(1) Applications for licensure to practice dental hygiene in this state shall be made on the form provided by the dental hygiene committee and must be completely answered, including required credentials and documents. An applicant who has held a dental hygiene license issued in another state for one year or longer must apply for licensure by credentials pursuant to rule 650—11.6(153).

11.5(2) Applications for licensure must be filed with the dental hygiene committee along with:

a. *Documentation of graduation from dental hygiene school.* Satisfactory evidence of graduation from an accredited school of dental hygiene approved by the dental hygiene committee.

b. *Certification of good standing from dean or designee.* Certification by the dean or other authorized representative of the school of dental hygiene that the applicant has been a student in good standing while attending that dental hygiene school.

c. *Documentation of passage of national dental hygiene examination.* Evidence of attaining a grade of at least 75 percent on 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 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. *Payment of application, fingerprint and background check fees.* The nonrefundable application fee, plus the fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), as specified in 650—Chapter 15.

f. *Documentation of passage of jurisprudence examination.* Evidence of successful completion of a board-approved jurisprudence examination with a grade of at least 75 percent.

g. *Current CPR certification.* A statement:

(1) Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a “hands-on” clinical component;

(2) Providing the expiration date of the CPR certificate; and

(3) Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

h. *Explanation of any legal or administrative actions.* A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges.

i. Completed fingerprint packet. A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.

11.5(3) The dental hygiene committee may require a personal appearance or any additional information relating to the character, education and experience of the applicant.

11.5(4) Applications must be signed and verified as to the truth of the statements contained therein.

11.5(5) Following review by the dental hygiene committee, the committee shall make recommendation to the board regarding the issuance or denial of any license to practice dental hygiene. The board's review of the dental hygiene committee recommendation is subject to 650—Chapter 1.

This rule is intended to implement Iowa Code chapters 147 and 153.

[**ARC 7790B**, IAB 5/20/09, effective 6/24/09; **ARC 9218B**, IAB 11/3/10, effective 12/8/10; **ARC 9510B**, IAB 5/18/11, effective 6/22/11; **ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 2870C**, IAB 12/21/16, effective 1/25/17]

650—11.6(153) Dental hygiene licensure by credentials. To be issued a license to practice dental hygiene in Iowa on the basis of credentials, an applicant shall meet the following requirements.

11.6(1) Applications for licensure by credentials to practice dental hygiene in this state shall be made on the form provided by the dental hygiene committee and must be completely answered, including required credentials and documents.

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 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. A statement of any dental hygiene examinations taken by the applicant, with indication of pass/fail for each examination taken. 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.

d. Evidence of a current, valid license to practice dental hygiene in another state, territory or district of the United States issued under requirements equivalent or substantially equivalent to those of this state.

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 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. Evidence from the state board of dentistry, or equivalent authority, in each state in which applicant has been licensed to practice dental hygiene, that the applicant has not been the subject of final or pending disciplinary action.

g. A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges, including the results of a self-query of the National Practitioner Data Bank (NPDB).

h. The nonrefundable application fee for licensure by credentials, the initial licensure fee and the fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa

division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), as specified in 650—Chapter 15.

i. A statement:

(1) Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a “hands-on” clinical component;

(2) Providing the expiration date of the CPR certificate; and

(3) Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

j. Successful completion of a board-approved jurisprudence examination with a grade of at least 75 percent.

k. A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.

11.6(3) Applicant shall appear for a personal interview conducted by the dental hygiene committee or the board by request only.

11.6(4) The dental hygiene committee may also require such examinations as may be necessary to evaluate the applicant for licensure by credentials.

11.6(5) Applications must be signed and verified attesting to the truth of the statements contained therein.

11.6(6) Following review by the dental hygiene committee, the committee shall make a recommendation to the board regarding issuance or denial of a dental hygiene license. The board’s review of the dental hygiene committee recommendation is subject to 650—Chapter 1.

This rule is intended to implement Iowa Code section 147.80 and chapter 153.

[ARC 9218B, IAB 11/3/10, effective 12/8/10; ARC 0265C, IAB 8/8/12, effective 9/12/12; ARC 0618C, IAB 3/6/13, effective 4/10/13; ARC 2870C, IAB 12/21/16, effective 1/25/17]

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. The local anesthesia is prescribed by a licensed dentist.

3. The local anesthesia is administered under the direct supervision of a licensed dentist.

11.7(1) Application for permit. A dental hygienist shall make application for a permit to administer local anesthesia on the form approved by the dental hygiene committee and provide the following:

a. The fee for a permit to administer local anesthesia as specified in 650—Chapter 15; and

b. Evidence that formal training in the administration of local anesthesia has been completed within 12 months of the date of application. The formal training shall be approved by the dental hygiene committee and conducted by a school accredited by the American Dental Association Commission on Dental Education; or

c. Evidence of completion of formal training in the administration of local anesthesia approved by the dental hygiene committee and documented evidence of ongoing practice in the administration of local anesthesia in another state or jurisdiction that authorizes a dental hygienist to administer local anesthesia.

11.7(2) Permit renewal. The permit shall expire on August 31 of every odd-numbered year. To renew the permit, the dental hygienist must:

a. At the time of renewal, document evidence of holding an active Iowa dental hygiene license.

b. Submit the application fee for renewal of the permit as specified in 650—Chapter 15.

11.7(3) Failure to meet the requirements for renewal shall cause the permit to lapse and become invalid.

11.7(4) A permit that has been lapsed for two years or less may be reinstated upon the permit holder’s application for reinstatement and payment of the reinstatement fee as specified in 650—Chapter 15. A permit that has been lapsed for more than two years may be reinstated upon application for reinstatement,

documentation of meeting the requirements of 11.7(1) “b” or “c,” and payment of the reinstatement fee as specified in 650—Chapter 15.

This rule is intended to implement Iowa Code sections 147.10 and 147.80 and chapter 153.
[ARC 0265C, IAB 8/8/12, effective 9/12/12]

650—11.8(147,153) Review of applications. Upon receipt of a completed application, the executive director as authorized by the board has discretion to:

1. Authorize the issuance of the license, permit, or registration.
2. Refer the license, permit, or registration application to the license committee for review and consideration when the executive director determines that matters including, but not limited to, prior criminal history, chemical dependence, competency, physical or psychological illness, malpractice claims or settlements, or professional disciplinary history are relevant in determining the applicants’ qualifications for license, permit, or registration.

11.8(1) Following review and consideration of a license, permit, or registration application referred by the executive director, the license committee may at its discretion:

- a. Recommend to the board issuance of the license, permit, or registration.
- b. Recommend to the board denial of the license, permit, or registration.
- c. Recommend to the board issuance of the license, permit, or registration under certain terms and conditions or with certain restrictions.
- d. Refer the license, permit, or registration application to the board for review and consideration without recommendation.

11.8(2) Following review and consideration of a license, permit, or registration application referred by the license committee the board shall:

- a. Authorize the issuance of the license, permit, or registration,
- b. Deny the issuance of the license, permit, or registration, or
- c. Authorize the issuance of the license, permit, or registration under certain terms and conditions or with certain restrictions.

11.8(3) The license committee or board may require an applicant to appear for an interview before the committee or the full board as part of the application process.

11.8(4) The license committee or board may defer final action on an application if there is an investigation or disciplinary action pending against an applicant, who may otherwise meet the requirements for license, permit, or registration, until such time as the committee or board is satisfied that licensure or registration of the applicant poses no risk to the health and safety of Iowans.

11.8(5) The dental hygiene committee shall be responsible for reviewing any applications submitted by a dental hygienist that require review in accordance with this rule. Following review by the dental hygiene committee, the committee shall make a recommendation to the board regarding issuance of the license or permit. The board’s review of the dental hygiene committee’s recommendation is subject to 650—Chapter 1.

11.8(6) An application for a license, permit, or reinstatement of a license will be considered complete prior to receipt of the criminal history background check on the applicant by the FBI for purposes of review and consideration by the executive director, the license committee, or the board. However, an applicant is required to submit an additional completed fingerprint packet and fee within 30 days of a request by the board if an earlier fingerprint submission has been determined to be unacceptable by the DCI or FBI.

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.

This rule is intended to implement Iowa Code section 147.4.

650—11.10(147) Denial of licensure—appeal procedure.

11.10(1) Preliminary notice of denial. Prior to the denial of licensure to an applicant, the board shall issue a preliminary notice of denial that shall be sent to the applicant by regular, first-class mail. The preliminary notice of denial is a public record and shall cite the factual and legal basis for denying the application, notify the applicant of the appeal process, and specify the date upon which the denial will become final if it is not appealed.

11.10(2) Appeal procedure. An applicant who has received a preliminary notice of denial may appeal the notice and request a hearing on the issues related to the preliminary notice of denial by serving a request for hearing upon the executive director not more than 30 calendar days following the date when the preliminary notice of denial was mailed. The request is deemed filed on the date it is received in the board office. The request shall provide the applicant's current address, specify the factual or legal errors in the preliminary notice of denial, indicate if the applicant wants an evidentiary hearing, and provide any additional written information or documents in support of licensure.

11.10(3) Hearing. If an applicant appeals the preliminary notice of denial and requests a hearing, the hearing shall be a contested case and subsequent proceedings shall be conducted in accordance with 650—51.20(17A). License denial hearings are open to the public. Either party may request issuance of a protective order in the event privileged or confidential information is submitted into evidence.

a. The applicant shall have the ultimate burden of persuasion as to the applicant's qualification for licensure.

b. The board, after a hearing on license denial, may grant the license, grant the license with restrictions, or deny the license. The board shall state the reasons for its final decision, which is a public record.

c. Judicial review of a final order of the board to deny a license, or to issue a license with restrictions, may be sought in accordance with the provisions of Iowa Code section 17A.19.

11.10(4) Finality. If an applicant does not appeal a preliminary notice of denial, the preliminary notice of denial automatically becomes final and a notice of denial will be issued. The final notice of denial is a public record.

11.10(5) Failure to pursue appeal. If an applicant appeals a preliminary notice of denial in accordance with 11.10(2), but the applicant fails to pursue that appeal to a final decision within six months from the date of the preliminary notice of denial, the board may dismiss the appeal. The appeal may be dismissed after the board sends a written notice by first-class mail to the applicant at the applicant's last-known address. The notice shall state that the appeal will be dismissed and the preliminary notice of denial will become final if the applicant does not contact the board to schedule the appeal hearing within 14 days after the written notice is sent. Upon dismissal of an appeal, the preliminary notice of denial becomes final.

This rule is intended to implement Iowa Code sections 147.3, 147.4 and 147.29.
[ARC 7789B, IAB 5/20/09, effective 6/24/09]

650—11.11(252J,261) Receipt of certificate of noncompliance. The board shall consider the receipt of a certificate of noncompliance from the college student aid commission pursuant to Iowa Code sections 261.121 to 261.127 and 650—Chapter 34 of these rules or receipt of a certificate of noncompliance of a support order from the child support recovery unit pursuant to Iowa Code chapter 252J and 650—Chapter 33 of these rules. License denial shall follow the procedures in the statutes and board rules as set forth in this rule.

This rule is intended to implement Iowa Code chapter 252J and sections 261.121 to 261.127.

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CHAPTER 5
PURCHASING

751—5.1(8D) Applicability of competitive bidding.

5.1(1) The commission shall use competitive bidding to purchase goods and services from private agencies when the estimated annual value of the contract is equal to or greater than \$5,000 or when the estimated value of the multiyear service contract in the aggregate, including any renewals, is equal to or greater than \$15,000, unless there is adequate justification for a sole-source procurement pursuant to subrule 5.1(2) or another provision of law.

a. When the estimated annual value of the contract is equal to or greater than \$5,000, but less than \$50,000, or the estimated value of the multiyear contract in the aggregate, including any renewals, does not exceed \$150,000, the commission, in its sole discretion, shall use either a formal or informal competitive selection process to procure the goods or services.

b. When the estimated annual value of the contract is equal to or greater than \$50,000 or the estimated value of the multiyear contract in the aggregate, including any renewals, exceeds \$150,000, the commission shall use a formal competitive bidding process to procure the goods or services.

c. For any single item, the commission may spend up to the maximum amount permitted by Iowa Code Supplement section 8D.11 to acquire the item. This maximum amount is not applicable to purchases under the contracting authority permitted by Iowa Code section 8D.13 or any other authority of the commission.

5.1(2) The commission shall avoid sole-source procurements unless clearly necessary and justifiable. The commission may purchase goods or services using a sole-source procurement under the following circumstances:

a. The executive director or commission's designee determines that one vendor is the only one qualified or eligible or is quite obviously the most qualified or eligible to provide the goods or perform the services; or

b. The goods or services being purchased involve work that is of such a specialized nature or related to a specific geographic location that only a single source, by virtue of experience, expertise, proximity to the project, or ownership of intellectual property rights, could most satisfactorily provide the service; or

c. The commission is hiring the services of experts, advisors, counsel, or consultants to assist in any type of legal proceeding including but not limited to testifying or assisting in the preparation of quasi-judicial or judicial proceedings; or

d. The federal government or other provider of funds for the service being purchased, other than the state of Iowa, has imposed clear and specific restrictions on the commission's use of the funds in a way that restricts the commission to only one service provider; or

e. Applicable law requires, provides for, or permits the use of a sole-source procurement; or

f. There is an immediate or emergency need for the item or service; or

g. The item is maintenance services for the network for which the vendor supplies remote maintenance service for network components or software or the vendor supplies software upgrades, patches, modifications or the like electronically or for which the service will preserve equipment or software warranties.

5.1(3) When the annual value of the contract exceeds \$5,000 or when the estimated value of the multiyear contract in the aggregate, including renewals, is equal to or greater than \$15,000, the commission shall complete a sole-source justification form. The sole-source justification form shall be reviewed, approved and signed by both the executive director and the chief financial officer before the commission proceeds with the sole-source procurement.

[ARC 3958C, IAB 8/15/18, effective 9/19/18]

751—5.2(8D) Methods of obtaining bids or proposals used by the commission. The commission shall obtain bids or proposals by one of the following methods. If more than one method is applicable to the purchase of a particular item, the commission shall choose the method of bidding to be utilized.

For any method used, the commission may provide notice of the solicitation electronically and vendors may submit proposals electronically unless the bidding documents provide otherwise.

5.2(1) *Formal invitations to bid.*

a. A formal invitation to bid may be required for any item if cost is the major criterion for selection. Other criteria may also be used, provided that the commission describes the criteria in the bid documents. The commission shall prepare a written invitation-to-bid form and shall transmit the form either by mail, electronically, or digitally to selected vendors in the business of providing the goods or services sought by the commission.

b. The invitation to bid shall contain the due date and time of the bid opening, a complete description of the item needed, and any other necessary or proper items. The price quoted by the vendors shall remain binding throughout the applicable time period.

5.2(2) *Informal selection process.*

a. The commission may use an informal selection process when permitted by rule 5.1(8D). An informal selection process is a streamlined competitive bidding process in which the commission makes an effort to contact at least three prospective vendors to solicit bids or proposals to provide the goods or services sought by the commission. Informal bids or proposals may be obtained by the commission through use of a written bid form faxed or mailed to selected vendors, email, posting a notice on the commission's website and inviting bids or proposals electronically or over the telephone.

b. Written informal bids and proposals shall be opened as received, and informal telephone bids shall be recorded as received. If a bid is received over the telephone, a telephone bid form shall be used to record the bid received. If a bid is received by email, the email shall be printed or stored in a secure electronic format so that the bid can be retrieved and read in machine-readable form. The information contained in the email shall be recorded on a form similar to the telephone bid form. If an informal bid is received by fax, the information on the fax shall be recorded on a form similar to the form used for telephone bids.

5.2(3) *Formal requests for proposals.*

a. Whenever a requirement exists for an item and cost may not be the sole criterion for selection and rule 5.1(8D) requires the commission to conduct a formal competitive selection process, the commission shall issue a formal request for proposal. The purpose of a request for proposal is to provide the vendor with sufficient information about the commission's requirements and goals to allow the vendor to propose a solution to the commission's requirements.

b. The terms quoted by the vendor shall remain binding throughout the applicable time frame.

c. The commission may request best and final offers as part of the request-for-proposal process.

5.2(4) *Auctions and reverse auctions.*

a. The commission may purchase items at auction when the auction is conducted electronically, digitally or otherwise. For any single item, the commission may spend up to the maximum amount permitted by Iowa Code section 8D.11 as amended by 2007 Iowa Acts, House File 851, section 2, to acquire the item. However, the commission shall not make a bid for any item for which the bid price at the auction exceeds the reasonable market price of an item. The commission shall perform a market analysis prior to the auction to determine the market price for items available by auction. The commission shall retain the market analysis with any other documentation for the purchase of the item at the auction.

b. The commission may purchase items using a reverse auction. A reverse auction is a price negotiation technique using secure Internet-based technology. This technique involves posting a requirement on an Internet site accessible by the public that allows vendors to post bids publicly. The buyer offers to purchase a product or service for a maximum amount (reserve price), and then the sellers or suppliers bid down the purchase price the buyer will actually pay for fulfillment. Vendors are able to see the current bids (but not the identity of the bidders) and post new or revised bids that are lower, thus increasing competition. When the commission conducts a reverse auction, the following requirements shall be met:

(1) The invitation to bid or the request for proposals shall provide notification of the intent to use the reverse auction process and provide instructions for participating in that process. The bidding documents

shall also provide notification that a bidder's consent to disclosure of the bidder's bid price as part of the auction process is required in order to participate.

(2) The commission shall determine the specifications and requirements of the items to be acquired.

(3) The commission shall identify and provide notice to potential vendors concerning the proposed acquisition.

(4) The commission shall establish prequalification requirements to be met by a vendor in order to be eligible to participate in the reverse auction. The prequalification requirements shall be included in the bidding documents.

(5) Prior to conducting a reverse auction, the commission shall establish a threshold amount, which shall be the maximum amount that the commission is willing to pay for the items to be acquired.

(6) Evaluation factors other than price shall be clearly listed and explained. The commission may direct bidders to supply technical proposals or other information in order to evaluate other factors and to use the reverse auction only as a price negotiation tool.

(7) The commission shall set the time of the auction.

(8) The commission shall establish minimum bid decrements.

(9) The commission shall establish the currency for the offering of bids.

(10) The commission shall establish the language for the bids.

(11) The commission may purchase additional quantities of the item if there are additional funds left at the end of the auction. The commission shall purchase additional quantities from the successful vendor.

751—5.3(8D) Items purchased through the department of administrative services. Goods and services may be obtained by the commission through the department of administrative services whenever procurement through administrative services is appropriate and in the best interests of the commission. Items procured through administrative services may be obtained by administrative services in any manner deemed appropriate by administrative services.

751—5.4(8D) Notice of bids or requests.

5.4(1) The commission shall post solicitations of formal bids or requests on the commission's Internet web page.

5.4(2) The commission expressly adopts 11 IAC 105.7(1) and shall enforce the notice requirements and consequences for insufficient notice contained therein.

5.4(3) All contracts of the commission shall comply with the legal notice requirements relating to targeted small businesses.

751—5.5(8D) Contract purchases. The commission may enter into contract purchase agreements for items, groups of items, or services. Contract purchase agreements are subject to the competitive bidding requirements previously outlined where applicable. The commission may also purchase items from other contracts obtained by other governmental entities if the law or the contract allows.

751—5.6(8D) Blanket purchase agreements. If the commission foresees a requirement for frequent purchases of off-the-shelf items, the commission may establish blanket purchase agreements. A blanket purchase agreement is a formally approved charge account that is designed to reduce paperwork and the number of checks issued. Blanket purchase agreements are subject to the competitive bidding requirements previously outlined where applicable.

751—5.7(8D) Prospective vendor selection.

5.7(1) Any firm or business legally transacting business within Iowa at the time the contract for goods or services is executed, may request placement on the approved vendor list for a particular service or commodity by filing a vendor application form with the commission. The commission may mail copies of solicitation documents to vendors on the list for a particular item or to any other vendor which the commission chooses to contact. A vendor may be refused placement on the list or suspended or permanently removed from the list for any of the following reasons:

- a. Failure to respond to three consecutive solicitations;
- b. Failure to deliver within specified delivery dates;
- c. Failure to deliver in accordance with specifications;
- d. Attempts to influence the decision of any state employee involved in the procurement process;
- e. Evidence of agreements by the vendor to restrain trade or impede competitive bidding;
- f. Any other activities of the vendor which the commission determines would render the vendor unsuitable; and
- g. Failure to pay subcontractors.

5.7(2) The executive director shall notify a vendor in writing prior to refusing placement on the list, suspending the vendor from the list, or permanently removing the vendor from the list. The vendor shall be provided a reasonable opportunity to explain and cure any misconduct identified by the executive director. If the executive director ultimately refuses placement on the list or removes the vendor from the list, the vendor may appeal the executive director's action to the commission pursuant to the criteria for vendor appeals contained in these rules.

5.7(3) The commission shall select vendors to receive solicitation documents based on the commission's knowledge of the vendors in the particular market. The initial vendor selection shall be designed to promote the competitive bidding process, the set-aside procurement programs, and the best interests of the commission. The commission shall also provide solicitation documents to qualified vendors upon request when the request is made during the solicitation period. The vendor is solely responsible for ensuring that solicitation documents are received by the vendor.

751—5.8(8D) Bids and proposals to conform with specifications. All bids and proposals must conform to the specifications indicated by the commission. Bids and proposals which do not conform to the specifications stated may be rejected. The commission reserves the right to waive deficiencies in the bids or proposals if in the judgment of the commission the best interests of the commission would be served by the waiver.

751—5.9(8D) Time of delivery. When evaluating bids or proposals the commission may consider the time of delivery when determining the successful vendor.

751—5.10(8D) Cash discounts. When evaluating bids or proposals the commission may consider cash discounts.

751—5.11(8D) Tie bids. The commission shall resolve ties among bids or proposals which are equal in all respects by drawing lots unless only one of the tied bidders is an Iowa business. If only one of the bidders tied for an award is an Iowa business, the Iowa business shall be given preference over all tied out-of-state businesses. An Iowa business is a resident of the state of Iowa. If it is necessary to draw lots, the drawing shall be held in the presence of the vendors who submitted the tied bids or proposals whenever practical. If the tied vendors are not present, the drawing shall be held in front of at least two persons, and the commission shall document the drawing.

751—5.12(8D) Time of submission. Vendors shall submit all formal bids and proposals in sufficient time to actually reach the commission prior to the date and time set for the opening of the bids or proposals. Vendors shall submit all informal bids in time to reach the commission prior to the time specified by the commission. Bids and proposals received after the date and time set for opening or for submission shall be returned to the vendor unopened. The commission shall notify all vendors to which invitations to bid or requests for proposals were sent of any changes in the time of submission. If a formal invitation to bid or request for proposal is canceled prior to the time set for opening the bids or proposals, the commission shall return unopened any responses already received. If an informal invitation to bid is canceled prior to the time set for receiving bids, the commission shall destroy any bids already received.

751—5.13(8D) Modification or withdrawal of bids or proposals. Vendors may modify or withdraw bids or proposals prior to the time and date set for the bid or proposal opening. Modifications or

withdrawals shall be in writing and delivered in a sealed envelope which properly identifies the correct bid or proposal to be modified or withdrawn. Vendors may withdraw a bid or proposal after opening only with the approval of the commission if the commission finds that an honest error was made by the vendor which will cause undue financial hardship to the vendor and which will not cause undue financial hardship or inconvenience to the commission.

751—5.14(8D) Financial security. The commission may require bid security, litigation security, and performance security on formal bids or proposals. When required, security may be by certified check, cashier's check, certificate of deposit, or letter of credit made payable to the commission, or any other form specified by the commission.

751—5.15(8D) Rejection of bids and proposals. The commission reserves the right to reject any or all bids or proposals. The commission may reject bids and proposals because of faulty specifications, abandonment of the project, insufficient funds, evidence of unfair or flawed bidding procedures, failure of a vendor to meet the commission's requirements, insufficient evidence of a vendor's financial capability to perform the contract, or for any other reason if the commission determines that the best interests of the commission will be served by rejecting any or all bids. Following the rejection of bids or proposals, the commission may request new bids or proposals at any time deemed convenient by the commission.

751—5.16(8D) Background and informational statements. Bidders may be required to describe their organizational structure, to identify key personnel and to submit personnel to criminal history checks and background investigations. Any changes in key personnel during the bidding process or during the contract term must be reported to the commission before the change occurs.

751—5.17(8D) Vendor appeals. Any vendor whose bid or proposal has been timely filed and that is aggrieved by the commission's notice of intent to award may appeal the decision by filing a written notice of appeal before the Iowa telecommunications and technology commission, within five days of the date of the notice of intent to award, exclusive of Saturdays, Sundays, and legal state holidays. The commission's address is listed in 751—subrule 1.6(1). The commission must actually receive the notice of appeal at this address within the specified time frame to be considered timely. The notice shall state the following:

1. The relief demanded and the facts and law relied upon for relief;
2. The particular provisions of the statutes and rules involved with specific reference to the grounds identified in Iowa Code section 17A.19(10);
3. On whose behalf the petition is filed; and
4. The name, address and telephone number of the petitioner and the petitioner's attorney, if any.

751—5.18(8D) Procedures for vendor appeal. The vendor appeal shall be a contested case proceeding and shall be conducted in accordance with 751 IAC 4, unless the provisions of this rule provide otherwise.

5.18(1) Hearing. Upon receipt of a notice of vendor appeal, the commission shall contact the department of inspections and appeals to arrange for a hearing. The department of inspections and appeals shall send a written notice of the date, time and location of the appeal hearing to the aggrieved vendor or vendors. The presiding officer shall hold a hearing on the vendor appeal within 45 days of the date the notice of appeal was received by the commission.

5.18(2) Discovery. The parties shall serve any discovery requests upon the other parties at least 20 days prior to the date set for hearing. The parties must serve responses to discovery at least 10 days prior to the date set for the hearing.

5.18(3) Witnesses and exhibits. The parties shall contact each other regarding witnesses and exhibits at least ten days prior to the time set for the hearing. The parties must meet prior to the hearing regarding the evidence to be presented in order to avoid duplication or the submission of extraneous materials.

5.18(4) Evidence for a telephone or network hearing. If the hearing is conducted by telephone or on the fiberoptic network, the parties must deliver all exhibits to the office of the presiding officer three days

prior to the time the hearing is conducted. Any exhibits which have not been served on the opposing party should be served at least seven days prior to the hearing.

5.18(5) Contents of decision. The administrative law judge shall issue a proposed decision in writing that includes findings of fact and conclusions of law stated separately. The decision shall be based on the record of the contested case and shall conform with Iowa Code chapter 17A. The decision shall be sent to all parties by first-class mail.

5.18(6) Record requirements. The record of the contested case shall include all materials specified in Iowa Code subsection 17A.12(6). The record shall also include any request for a contested case hearing and other relevant procedural documents regardless of their form.

a. Method of recording. Oral proceedings in connection with a vendor appeal shall be recorded either by mechanized means or by certified shorthand reporters. Parties requesting that the hearing be recorded by certified shorthand reporters shall bear the costs.

b. Transcription. Oral proceedings in connection with a hearing in a case or any portion of the oral proceedings shall be transcribed at the request of any party with the expense of the transcription charged to the requesting party.

c. Tapes. Copies of tapes of oral proceedings may be obtained from the presiding officer at the requester's expense.

d. Retention time. The recording or stenographic notes of oral proceedings or the transcription shall be filed and maintained by the commission for at least five years from the date of the proposed decision.

5.18(7) Dismissal. A ruling dismissing all of a party's claims or a voluntary dismissal is a proposed decision under Iowa Code section 17A.15.

5.18(8) Stay of agency action for vendor appeal.

a. When available.

(1) Any party appealing the issuance of a notice of intent to award a contract may petition the presiding officer for a stay of the award pending its review. The petition for stay shall be filed with the notice of appeal and shall state the reasons justifying a stay.

(2) Any party adversely affected by a final decision and order may petition the commission which issued the decision for a stay of that decision and order pending judicial review. The petition for stay shall be filed with the executive director within ten days of receipt of the final decision and order and shall state the reasons justifying a stay.

b. When granted. The presiding officer or commission, as appropriate, shall grant a stay when it concludes that the movant has satisfied the standards for the grant of a stay included in 751—subrule 4.29(2).

c. Vacation. A stay may be vacated by the issuing authority upon application of the commission or any other party.

751—5.19(8D) Review of proposed decision.

5.19(1) The proposed decision shall become the final decision of the commission 15 days after mailing of the proposed decision, unless prior to that time a party submits an appeal from, or a commission member requests a review of the proposed decision.

5.19(2) A party appealing the proposed decision shall mail a copy of the notice of an appeal to all other parties. If a commission member requests a review of the proposed decision, the commission will mail a copy of the request for review to all parties. Within 15 days after mailing of a notice of appeal or of a request for review, any party may submit to the commission (in an original and eight copies) exceptions to and a brief in support of or opposition to the proposed decision, copies of which exceptions or brief shall be mailed by the submitting party to all other parties to the proceeding. The executive director shall notify the parties if the commission deems oral arguments by the parties to be appropriate. The executive director will schedule review of the proposed decision at the next commission meeting occurring not less than 30 days after mailing of the notice of appeal or request for review.

5.19(3) A party appealing a proposed decision shall mail or deliver the notice of appeal to the executive director of the Iowa telecommunications and technology commission at the ICN main office

location as listed in 751—subrule 1.6(1). Failure to request review will preclude judicial review unless the commission reviews a decision on its own motion. Notice of the review will be sent to all parties participating in the appeal.

5.19(4) The commission shall review the proposed decision based on the record and limited to issues raised in the hearing. The commission shall not take any further evidence and shall not consider issues that were not raised at the hearing. The issues shall be specified in the party's request for review. The party seeking review shall be responsible for transcribing any tape of the proceeding before the presiding officer and file the transcript as part of the record for review. The party seeking review shall bear the cost of the transcription regardless of the method used to transcribe the tape.

5.19(5) Each party shall have opportunity to file exceptions to the proposed decision and to present briefs in support of or in opposition to the proposed decision. The commission may set a deadline for submission of briefs. When the commission consents, oral arguments may be presented. A party wishing to make an oral argument shall specifically request it. All parties shall be notified in advance of the scheduled time and place.

5.19(6) Requests for rehearing shall be made to the commission within 20 days of issuing a final decision. A rehearing may be granted when new legal issues are raised, new evidence is available, an obvious mistake is corrected, or when the decision fails to include adequate findings or conclusions on all issues. A request for rehearing is not necessary to exhaust administrative remedies.

5.19(7) Judicial review of the commission's final decisions may be sought in accordance with Iowa Code section 17A.19.

751—5.20(8D) Purchasing cooperative or consortium.

5.20(1) Membership. The commission may join a purchasing cooperative or consortium composed of public or private entities, or both, for the purpose of reducing overall telecommunications business costs for the commission and its authorized users.

5.20(2) Prior to joining a purchasing cooperative or consortium, the commission shall review membership obligations to ensure that the commission's membership obligations are not inconsistent with the laws and rules governing the commission.

5.20(3) Notwithstanding the provisions of subrules 5.20(1) and 5.20(2), the commission may purchase goods and services through the cooperative or consortium without conducting a separate competitive bidding process so long as the cooperative or consortium uses or used a competitive bidding process or procedure.

These rules are intended to implement Iowa Code sections 8D.3(3) "b" and 8D.11.

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CHAPTER 7
AUTHORIZED USE AND USERS

751—7.1(8D) Definitions. For the purposes of interpreting these rules, the following definitions are applicable.

“Authorized facility” means a site operated by an authorized user that is consistent with the written mission of the authorized user.

“Authorized use” means use of the network by an authorized user or by persons acting on behalf of an authorized user as provided in this chapter for the following purposes of the authorized user: (1) state or federal communications as defined in this chapter; (2) education or educational purposes as defined in this chapter; (3) training programs provided under state law and training programs developed by authorized users; (4) telemedicine or related purposes as defined in this chapter; (5) official governmental use by a state agency or a federal agency as defined in this chapter consistent with authorized purposes under applicable state or federal law; (6) establishing and operating a shared data only network for law enforcement, emergency management, disaster services, emergency warning and other emergency information dissemination services to federal, state and local law enforcement agencies and local emergency management offices; or (7) city of Des Moines.

“Authorized user” means a private or public agency except for a public or private agency which was required pursuant to Iowa Code section 8D.9(1) to certify to the commission not later than July 1, 1994, of the agency’s intent to become a part of the network and which did not provide such certification. Agencies that obtain legislative approval to join the network after July 1, 1994, will be treated as a public or private agency for purposes of this definition and all provisions of Iowa Code chapter 8D.

“Commission” means the Iowa telecommunications and technology commission.

“Dial-up access” means the ability of an authorized user using technical or mechanical means to access a computer network using a telecommunications facility and modem.

“Direct connection” means a connection to the network by an authorized facility using owned, leased or contracted telecommunications facilities.

“Educational use” means a use that is within the written mission of an accredited nonpublic school, a nonprofit institution of higher education eligible for tuition grants, an institution under the control of the board of regents, a school corporation, a city library, a regional library as provided in Iowa Code chapter 256, and a county library as provided in Iowa Code chapter 336.

“Federal agency” means each board, commission, department, or agency of the executive, legislative, and judicial branches of the United States, or the U.S. Post Office which receives a federal grant for pilot or demonstration projects or the independent establishments and corporations of the federal government as identified from time to time in The United States Government Manual, the official handbook of the federal government, published on an annual basis by the Office of the Federal Register as a special edition of the Federal Register. The Manual includes comprehensive information on the agencies of the legislative, judicial, and executive branches. The Manual also includes information on quasi-official agencies; international organizations in which the United States participates and boards, commissions and committees of the federal government. For example, independent establishments and corporations may include the following:

- Central Intelligence Agency
- Commodity Futures Trading Commission
- Consumer Product Safety Commission
- Defense Nuclear Facilities Safety Board
- Environmental Protection Agency
- Export-Import Bank of the United States
- Federal Communications Commission
- Federal Deposit Insurance Corporation
- Federal Election Commission
- Federal Emergency Management Agency
- Federal Reserve System

Federal Trade Commission
Federal Trade Commission's Consumer Line
General Services Administration
National Aeronautics and Space Administration
National Archives and Records Administration
National Credit Union Administration
National Foundation on the Arts and the Humanities
National Endowment for the Arts
National Endowment for the Humanities
National Railroad Passenger Corporation (Amtrak)
National Science Foundation
Nuclear Regulatory Commission
Peace Corps
Pension Benefit Guaranty Corporation
Railroad Retirement Board
Securities and Exchange Commission
Selective Service System
Small Business Administration
Social Security Administration
Tennessee Valley Authority
United States Arms Control and Disarmament Agency
United States Information Agency
United States International Development Cooperation Agency
United States International Trade Commission
United States Postal Service
United States Trade Representative

"Internet access" means access to the Internet and its successors.

"Internet service provider" means a private for-profit or a not-for-profit service provider who acts as a gateway to the Internet and its successors.

"Library" means a city library, a regional library as provided in Iowa Code chapter 256, or a county library as provided in Iowa Code chapter 336, or a library that is part of an authorized user facility and which may be a center for lifelong learning within a community, provides equity of access to information and publications in all formats whether actually stored at the library or off site, to enhance the lives of its customers regardless of age, color, creed, national origin, race, religion, marital status, gender, physical disability or familial status, economic or social status, or location, and is a place for people to gather for meetings, classes and discussion groups.

"Network" means the Iowa communications network, the fiberoptic network owned and leased by the state of Iowa and operated by the commission.

"Part I" means the communications connections between the central switching hub of the network located at joint forces headquarters (JFHQ) armory and the 15 community colleges, the universities governed by the board of regents and Iowa public television and the other regional switching centers for the remainder of the network. These are state-owned facilities.

"Part II" means the communications connections between the Part I regional switching centers and each of the 99 counties located in the state. These are state-owned facilities.

"Part III" means the communication connections between the secondary switching centers and the school districts and libraries and any other private or public agency authorized by the general assembly to connect to the network. Part III consists of primarily leased equipment and telecommunications facilities except that some sites are owned by the state as designated by the general assembly.

"Person" means an individual, corporation, limited liability company, or any other legal entity.

"Private agency" means an accredited nonpublic school, a nonprofit institution of higher education eligible for tuition grants, a hospital licensed pursuant to Iowa Code chapter 135B or a physician clinic to the extent provided in Iowa Code section 8D.13, subsection 16, or the Iowa Hospital Association.

“*Public agency*” means a state agency, an institution under the control of the board of regents, the judicial department as provided in Iowa Code section 8D.13, subsection 17, a school corporation, a city library, a regional library as provided in Iowa Code chapter 256, a county library as provided in Iowa Code chapter 336, or a judicial district department of correctional services established in Iowa Code section 905.2 to the extent provided in Iowa Code section 8D.13, subsection 15, an agency of the federal government, or a U.S. Post Office which receives a federal grant for pilot and demonstration projects. “Public agency” also includes any homeland security or defense facility or disaster response agency established by the administrator of the homeland security and emergency management division of the department of public defense or the governor, or any facility connected with a security or defense system or disaster response as required by the administrator of the homeland security and emergency management division of the department of public defense or the governor.

“*Requesting authorized user*” means an authorized user initiating a network video scheduling request regardless of the specific site from which the event originates.

“*School*” means an accredited nonpublic school, a nonprofit institution of higher education eligible for tuition grants, an institution under the control of the board of regents, or a school corporation.

“*State agency*” means each board, commission, or department of the executive, legislative, or judicial branches of the state of Iowa and other entities created or authorized by the general assembly.

“*State communications*” refers to the transmission of voice, data, video, the written word or other visual signals by electronic means but does not include radio and television facilities and other educational telecommunications systems and services including narrowcast and broadcast systems under the public broadcasting division of the department of education, or the department of transportation distributed data processing and mobile radio network.

“*Telecommunications facility*” means a collection of fibers which originates at an access point and ends at the fiberoptic termination connector attached to other electronic and optronic equipment necessary to transmit voice, video or data transmissions across the fiberoptic network.

“*Telemedicine*” means use of a telecommunications system for diagnostic, clinical, consultative, data, and educational services for the delivery of health care services or related health care activities by licensed health care professionals, licensed medical professionals, and staff who function under the direction of a physician, a licensed health care professional, or hospital for the purpose of developing a comprehensive, statewide telemedicine network or education.

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751—7.2(8D) Internet access provided by the network. The commission may offer Internet access to authorized users as permitted by these rules as one of the services of the network.

751—7.3 Reserved.

751—7.4(8D) Authorized facility connectivity. The following facilities used by authorized users shall be permitted to connect directly to the network.

7.4(1) Educational facilities. The following educational facilities may have a direct connection to the network for voice, video and data transmissions including Internet access.

- a. Public or private K-12 schools;
- b. Public or private school administration facilities;
- c. Area education agencies;
- d. Local school board offices;
- e. Accredited private nonprofit colleges or universities eligible for tuition grants;
- f. Regents facilities;
- g. Community colleges;
- h. Off-site, dedicated classrooms, wherever located;
- i. Iowa law enforcement academy;
- j. University-affiliated research facilities.

7.4(2) State agency facilities. The following state agency facilities may have a direct connection to the network for voice, video and data transmissions including Internet access.

- a. State departments, agencies, and field offices;
- b. Iowa National Guard facilities;
- c. Judicial branch facilities;
- d. Community-based correction facilities;
- e. Buildings owned or leased by the state;
- f. Iowa state fairgrounds;
- g. Legislative branch facilities.

7.4(3) Federal government facilities. The following federal agency facilities may have a direct connection to the network for voice, video and data transmissions including Internet access.

- a. Federal departments and agencies including regional, territorial, zone and state offices;
- b. Federal judicial branch facilities;
- c. Federal legislative branch facilities;
- d. Buildings owned or leased by the federal government.

7.4(4) U.S. Post Office. A U.S. Post Office may have a direct connection to the network for voice, video and data transmissions if it receives a federal grant for a pilot or demonstration project.

7.4(5) Telemedicine connectivity.

a. The following telemedicine facilities may connect directly to the network for video and data transmissions including Internet access.

- (1) Hospitals licensed pursuant to Iowa Code chapter 135B;
- (2) Physician clinics to the extent provided in Iowa Code section 8D.13(16).

b. Access is offered to the Iowa Hospital Association for the purposes of collection, maintenance, and dissemination of health and financial data for hospitals and for hospital education services.

7.4(6) Library connectivity. The following libraries may connect to the network for voice, video and data transmissions including Internet access.

- a. City public libraries;
- b. Regional public libraries as provided in Iowa Code chapter 256;
- c. County libraries as provided in Iowa Code chapter 336.

7.4(7) County and local government facilities. The following county and local government facilities may have a direct connection to the network for voice, video and data transmissions including Internet access.

a. County courthouses or other state judicial facilities to the extent the courthouse or other state judicial facilities are used by state judicial branch employees or its vendors or service providers;

b. The city of Des Moines governmental facilities.

7.4(8) Emergency services for county and local government facilities. The following facilities may be connected to the network for data transmissions only:

a. Emergency management facilities;

b. Federal, state and local enforcement agency facilities as provided in Iowa Code section 80.9;

c. Disaster services sites or facilities;

d. Emergency warning sites, facilities, or telecommunications facilities;

e. Other emergency information dissemination service sites, facilities, or telecommunications facilities;

f. Local emergency management offices established under the authority of Iowa Code sections 29C.9 and 29C.10.

751—7.5(8D) Use or access to all services. The following persons may use or access the network for voice, video and data transmissions including Internet access that exist or may be available in the future at the facility of an authorized user if the use is consistent with the written mission of the authorized user allowing access to the network at its site:

1. All students;
2. Faculty and educational staff;

3. Educational board members and staff;
4. School foundation members;
5. Alumni organization members;
6. State and federal employees;
7. State and federal members of boards, commissions, councils, advisory groups and committees;
8. State and federal elected officials;
9. State and federal appointed officials;
10. State and federal judges, judiciary employees, administrative law judges, associate judges, magistrates, referees, mediators and participants;
11. State and federal judicial board or commission members;
12. Employees of the city of Des Moines;
13. Community-based corrections employees;
14. Library employees or volunteer staff members;
15. Library board and staff members;
16. Library users.
17. Persons under the care, control or custody of the department of corrections, judicial district department correctional services, the department of human services, or their agents serving persons under the care, control or custody of the agent.

751—7.6(8D) Use or access to voice and data services. The following persons may use or access the network for voice and data transmissions including Internet access that exists or may be available in the future at the facility of an authorized user if the use is consistent with the written mission of the authorized user and the person or persons are acting on behalf of the authorized user:

1. Alumni of educational institutions;
2. Educational member associations;
3. Parent-teacher organizations, for example, parent-teacher associations, home and school associations;
4. Professional boards where educational employees serve, for example, a university professor serves on the board of the Iowa Association of Economists;
5. State and federal government-sponsored entity employees, for example, Federal Home Loan Bank Board employees, Federal Deposit Insurance Corporation employees;
6. Vendors and service providers;
7. State or federal governmental association members;
8. State or federal governmental employee union members;
9. Other state governmental employees;
10. Professional boards where state or federal employees serve, for example, state employees serving on the Association of Business and Industry;
11. City and county employees;
12. Local elected officials;
13. Local boards, commissions, advisory councils or committees;
14. Fire department employees and staff whether paid or volunteer;
15. Local government associations, for example, League of Cities, ISAC.

751—7.7(8D) Use or access to full motion interactive video services—prerequisites. The full motion interactive video services may be used by certain persons and entities if the use meets the following conditions:

1. The use is within the requesting authorized user's written mission; and
2. A representative of the authorized user is present and participating in the session; or
3. The authorized user has a written contract with the person accessing the network; and
4. The use does not facilitate or enable a private person or entity to use the network for direct pecuniary gain.

7.7(1) *Use or access to full motion interactive video services.* The following persons may access the network for video transmissions at the facility of an authorized user if the use satisfies the conditions outlined above:

- a. Alumni of educational institutions;
- b. Educational member associations;
- c. Parent-teacher organizations, for example, parent-teacher associations, home and school associations;
- d. Professional boards where educational employees serve, for example, a university professor serves on the board of the Iowa Association of Economists;
- e. State and federal government-sponsored entity employees, for example, Federal Home Loan Bank Board employees, Federal Deposit Insurance Corporation employees;
- f. Vendors and service providers;
- g. State or federal governmental association members;
- h. State or federal governmental employee union members;
- i. Other state governmental employees;
- j. Professional boards where state or federal employees serve, for example, state employees serving on the Association of Business and Industry;
- k. City and county employees;
- l. Local elected officials;
- m. Local boards, commissions, advisory councils or committees;
- n. Fire department employees and staff whether paid or volunteer;
- o. Federal, state and local law enforcement employees and staff;
- p. Emergency management employees and staff;
- q. County sheriff's office employees and staff;
- r. Local government associations, for example, League of Cities, ISAC;
- s. Patients acting under the direction of a licensed health care professional;
- t. Health care employees of facilities that have a contractual agreement with a hospital or physician clinic;
- u. Health care employees of facilities that do not have a contractual agreement with a hospital or physician clinic;
- v. Medical association members, for example, members of the Association of Iowa Hospitals and Health Systems, members of Iowa Medical Society, members of the Iowa Osteopathic Medical Association, members of the Iowa Chiropractic Society, members of the Iowa Nurses Association;
- w. Professional boards on which health professionals serve, for example, a physician serving on the board of the American Cancer Society.

7.7(2) Reserved.

751—7.8(8D) Use or access for home-schooled students with dual enrollment. A home-schooled student with dual enrollment may use the ICN at the school district at which the student is enrolled subject to a written local school district policy for serving home-schooled students with dual enrollment.

751—7.9(8D) Use or access for U.S. Post Office employees. U.S. Post Office employees acting under a contractual pilot or demonstration project may use or access the voice, data, and video services of the network including Internet access if the use or access is part of an authorized or contractual pilot or demonstration project.

751—7.10(8D) Use or access by shared data network users. The following persons may use or access the shared data network described in Iowa Code section 8D.13(19) if the use is for the purpose of establishing and operating a shared data only network providing law enforcement, emergency management, disaster service, emergency warning, and other emergency information dissemination services to federal, state, and local law enforcement agencies as provided in Iowa Code section 80.9,

and local emergency management offices established under the authority of Iowa Code sections 29C.9 and 29C.10:

1. Federal, state or local law enforcement personnel;
2. Emergency management personnel;
3. Disaster management site and facility personnel;
4. Other emergency information dissemination personnel;
5. Local emergency management personnel.

751—7.11(8D) Use or access to telemedicine users. The following persons and entities may use or access the network for data and video services including access to the Internet if the use is for telemedicine or educational purposes:

1. Licensed health care professionals or licensed health care professionals who function under the direction of or in collaboration with a physician or a hospital, or both, for example, other doctors, students, nurses, physician's assistants, therapists, clinical social workers, psychologists;
2. Hospital or physician clinic staff members;
3. Professional boards on which health professionals serve, for example, a nurse serving on the board of the American Cancer Society;
4. Patients acting under the direction of a licensed health care professional;
5. Health care employees of facilities that have a contractual agreement with the hospital or physician;
6. Health care employees of facilities that do not have a contractual agreement with the hospital or physician clinic;
7. Employees of health care associations for various health care employees, for example, Association of Iowa Hospitals and Health Systems, Iowa Medical Society, Iowa Osteopathic Medical Association, Iowa Chiropractic Society, Iowa Nurses Association;
8. Professional board members where a health care professional serves as a member of a board, for example, a physician serving on the board of the American Cancer Society.

This chapter is intended to implement Iowa Code sections 8D.2, 8D.3(1), 8D.3(3) "b," and 8D.13(14) to 8D.13(17).

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CHAPTER 8
AUXILIARY PERSONNEL

[Prior to 2/8/89, Veterinary Medicine, Board of[842] Ch 4]

811—8.1(169,17A) Definitions. As used in these rules, the following terms shall mean:

“Accredited school of veterinary technology” means a two-year college level training program providing basic training leading to a certificate of completion of a two-year program recognized and approved by the AVMA committee on accreditation of training for veterinary technicians or recognized and approved by the board.

“Board” means board of veterinary medicine.

“Department” shall mean the Iowa department of agriculture and land stewardship.

“Veterinary assistant” means an assistant employed by a licensed veterinarian for a purpose other than performing diagnosis, issuing prescriptions or performing surgery and includes, among other assistants, registered veterinary technicians.

“Veterinary technician” means any citizen of the United States who shall have graduated in veterinary technology from a two-year AVMA accredited school of veterinary technology; or in lieu thereof has assisted a licensed veterinarian for five years prior to 1980, or worked under the direction of a licensed veterinarian for at least three years, including at least one year of formal training approved by the board, in veterinary technology prior to 1981; and who shall have successfully passed an examination prescribed by the board.

811—8.2(169) Registration of veterinary technicians. All veterinary technicians shall be under the direct control of the board and shall be registered with the state veterinarian, bureau of animal industry, Iowa department of agriculture and land stewardship. Each veterinary technician must pass both the veterinary technician national examination and a veterinary technician state examination as approved by the board. Applications for registration shall be obtained from and remitted to the board. Applicants who have passed both examinations shall be issued a certificate by the board stating that the named candidate is registered as a veterinary technician.

[ARC 3696C, IAB 3/14/18, effective 4/18/18]

811—8.3(169) Examination. The veterinary technician state examination shall be given at least once annually at a site or sites to be designated by the board at least 60 days before the date of the examination. The board may provide for additional veterinary technician state examinations as deemed appropriate. In the event the board provides for additional examinations, the site or sites of the examination shall be designated by the board at least 60 days prior to the date of the examination.

8.3(1) An application fee in an amount determined by the board not to exceed \$45 shall accompany the application to take the veterinary technician state examination; both the fee and the application must be received by the board at least 30 days before the examination. An additional fee shall be submitted for the veterinary technician examination when a professional examination service is utilized by the board. The additional fee shall be the charges for the examination by the professional examination service plus administrative costs in an amount determined by the board. The fee for the veterinary technician state examination may be waived for qualifying military service personnel upon request.

8.3(2) An applicant who fails to earn a passing score on the veterinary technician state examination shall be entitled to retake the examination not earlier than 90 days since the applicant last took the examination. The applicant must submit a new application and the application fee in accordance with subrule 8.3(1) to retake the veterinary technician state examination. An applicant is limited to five total attempts at the veterinary technician state examination; any additional applications to retake the examination beyond the five allowable attempts may be considered by the board and may be granted at the board's discretion.

[ARC 1984C, IAB 4/29/15, effective 6/3/15; ARC 3696C, IAB 3/14/18, effective 4/18/18; ARC 3960C, IAB 8/15/18, effective 9/19/18]

811—8.4 Reserved.

811—8.5(169) Supervision. All veterinary assistants, including veterinary technicians, shall be employed by and receive compensation from and be under the direct supervision of a licensed or license exempt veterinarian, and shall function at the same place of business as the veterinarian. Such supervision shall include, but not be limited to, the availability of the veterinarian on the premises.

8.5(1) Veterinarian's responsibility:

a. To personally examine the animal within 12 hours before the assistant carries out any procedures.

b. To direct, control and supervise the conduct of the assistant in the assistant's work.

8.5(2) Veterinary assistant's responsibility:

a. The veterinary assistant, including registered veterinarian technicians, shall not perform surgery; shall not make a diagnosis and prognosis of animal diseases; shall not prescribe drugs, medicine and appliances, and shall not administer rabies vaccine.

b. Under conditions of an emergency, a veterinary assistant including a registered veterinary technician may render without supervision such lifesaving aid and treatment as follows: administration of oxygen; maintenance of airways including the nonsurgical insertion of an endotracheal tube; and control of hemorrhage. Under conditions of emergency, a registered veterinary technician but not an unregistered veterinary assistant may render such additional lifesaving aid and treatment as follows: placement of an IV catheter and the administration of fluids; external cardiac massage; and the administration of corticosteroids. Emergency aid and treatment, if rendered to an animal not in the presence of a licensed veterinarian, shall only be continued under the direction of a licensed veterinarian, which in the case of emergency may include telephone or radio contact by a veterinarian en route to the site, until the veterinarian arrives in a timely manner. "Emergency" for the purpose of this rule means that the animal has been placed in a life-threatening condition where immediate treatment is necessary to sustain life.

811—8.6(169) Revocation or suspension of veterinary technician's certificate. The following shall be grounds for revocation or suspension of a certificate at the discretion of the board:

1. Fraud, misrepresentation or deception in obtaining a certificate.
2. Conviction of a felony, in which case the record of such conviction will be conclusive evidence.
3. Chronic inebriety or habitual use of drugs.
4. For having professional connection with, or lending one's name to any illegal practice of veterinary medicine and the various branches thereof.
5. Conduct reflecting unfavorably on the vocation of veterinary technology.
6. Conviction on the charge of cruelty to animals.
7. Failure to satisfy the continuing education requirements of rule 8.10(169,272C).

811—8.7(169) Action against veterinarians. The board of veterinary medicine shall take action against any veterinarian licensed to practice in the state of Iowa who:

1. Permits or directs any veterinary assistant, including a registered veterinary technician, to perform veterinary duties involving diagnosis, prescription or surgery.
2. Permits or directs any veterinary assistant, including a registered veterinary technician, to perform any act which would be a legal or ethical violation if committed by the veterinarian.

811—8.8(169,272C) Disciplinary procedure. Disciplinary action taken under rule 8.6(169) or 8.7(169) shall follow the procedure established by 811—10.50(169,272C). Where appropriate, references in 811—10.50(169,272C) to a person licensed to practice veterinary medicine shall be construed to mean persons certified as a veterinary assistant or technician.

811—8.9(169,272C) Certification by endorsement. On a case-by-case basis, the board may issue certification by endorsement and without examination to applicants who hold certification or licensure as veterinary technicians in another jurisdiction.

811—8.10(169,272C) Continuing education.

8.10(1) At least 30 hours of continuing education in courses approved by the board of veterinary medicine shall be completed triennially by each registered veterinary technician. The registrant has the responsibility for financing continuing education. These credit hours may be obtained by attending approved scientific seminars and meetings on the basis of one credit hour for each hour of attendance. Attendance at any board-approved national, state or regional meeting will be acceptable. Credit for qualified graduate college courses may be approved on the basis of multiplying each college credit hour by 10, to a maximum of 15 hours during any one triennial. A maximum of 10 hours during any one triennial may be achieved by the completion of approved home study courses.

8.10(2) Each registrant shall obtain the 30 credit hours between the registrant's certificate anniversary date and the last day of the following three-year period. However, a registrant who graduated from an accredited college of veterinary technology within three years of the issuance of an Iowa certificate is required to obtain only 20 credit hours for the first triennial. Continuing education credits in excess of 30 hours for any three-year period may be carried over to the next triennial period, but the total number of credits carried over shall not exceed 10 hours.

8.10(3) Completion of the continuing education will be reported to the secretary of the board of veterinary medicine on forms provided by the board by December 31 of the triennial anniversary year. The reporting form must be signed by the registrant and accompanied by an administration fee of \$15.

8.10(4) Compliance with this rule and subrule 8.6(7) is waived until January 1, 1993. Registrants whose certificate triennial anniversary dates fall in the year 1993 shall complete and report 10 credit hours. Registrants whose certificate triennial anniversary dates fall in the year 1994 shall complete and report 20 credit hours. All registrants whose certificate triennial anniversary dates fall in the year 1995 and subsequent years shall complete and report the full 30 credit hours.

8.10(5) The board may waive continuing education requirements for qualifying military service personnel upon request.

[ARC 1984C, IAB 4/29/15, effective 6/3/15]

These rules are intended to implement Iowa Code sections 17A.3, 169.4, 169.5, 169.9, 169.12, 169.20 and 272C.4.

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[◇] Two or more ARCs