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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

Economic Development Authority[261]

Replace Analysis

Replace Reserved Chapters 115 to 162 with Reserved Chapters 115 and 116

Insert Chapter 117 and Reserved Chapters 118 to 162

Replace Chapter 400

Remove Reserved Chapters 401 to 409

Insert Chapters 401 and 402 and Reserved Chapters 403 to 409

Public Health Department[641]

Replace Chapters 28 to 30

Professional Licensure Division[645]

Replace Chapter 45

Replace Chapter 327

Secretary of State[721]

Replace Analysis

Replace Chapter 40

ECONOMIC DEVELOPMENT AUTHORITY[261]

[Created by 1986 Iowa Acts, chapter 1245]

[Prior to 1/14/87, see Iowa Development Commission[520] and Planning and Programming[630]]

[Prior to 9/7/11, see Economic Development, Iowa Department of[261];
renamed Economic Development Authority by 2011 Iowa Acts, House File 590]

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CHAPTER 117
SSBCI DEMONSTRATION FUND

261—117.1(84GA, HF590) Authority. The authority for establishing rules governing the SSBCI demonstration fund under this chapter is provided in 2011 Iowa Acts, House File 590.
[ARC 9846B, IAB 11/16/11, effective 10/26/11]

261—117.2(84GA, HF590) Purposes, goals, and promotion.

117.2(1) Purposes. The SSBCI demonstration fund is established to provide financial and technical assistance to innovative entrepreneurs and businesses. The purposes of providing such assistance are to help innovative entrepreneurs overcome the challenges associated with launching new ventures, attract private capital investment, and expand the volume of high-technology prototype and concept development activities which have a clear potential to lead to commercially viable products or services within a reasonable period of time.

117.2(2) Goals. The fund will be used to help businesses with a high growth potential to reach a position from which they will be able to attract later-stage private sector funding and to leverage as much private investment as possible in accordance with the goals and requirements of the federal SSBCI program.

117.2(3) Promotion. The authority will market and promote the fund in a way that reflects the purposes of subrule 117.2(1).
[ARC 9846B, IAB 11/16/11, effective 10/26/11]

261—117.3(84GA, HF590) Definitions. For purposes of this chapter, unless the context otherwise requires:

“*Authority*” means the economic development authority.

“*Award*” means the provision of financial or technical assistance to a project.

“*Board*” means the members of the board in whom the powers of the authority are vested pursuant to Iowa Code chapter 15.

“*Committee*” means the technology commercialization committee created by the board.

“*Financial assistance*” means assistance provided only from the funds, rights, and assets legally available to the authority and includes but is not limited to assistance in the form of grants, loans, forgivable loans, and royalty agreements.

“*Fund*” means the SSBCI demonstration fund established in this chapter.

“*Innovative business*” means a business applying novel or original methods to the manufacture of a product or the delivery of a service. “Innovative business” includes a business engaged in one of the following industries classified by the NAICS:

1. Biosciences.
2. Information technologies.
3. Advanced manufacturing.

“*IP*” means intellectual property.

“*NAICS*” means the North American Industry Classification System.

“*SSBCI*” means the State Small Business Credit Initiative established by the United States Department of the Treasury.

[ARC 9846B, IAB 11/16/11, effective 10/26/11]

261—117.4(84GA, HF590) Project funding.

117.4(1) Awards shall be made on a per-project basis upon board approval. Each award shall be designed in such a way as to most effectively implement the purposes and goals of the fund as described in rule 261—117.2(84GA, HF590).

117.4(2) The board may determine the appropriate amount of financial assistance for a single project based on the merits of the project, the amount of private investment to be leveraged by the project, the amount of moneys available for purposes of the fund, and the requirements of the SSBCI program.

117.4(3) Funds awarded by the board may be used for intellectual property development and evaluation, in-depth analysis of market potential, analysis of competitive landscape, advancing proof of concept work for a scientific discovery, designing and developing prototypes, conducting research and development to attract venture capital and other financing, marketing and product promotion, hiring of key personnel, purchasing equipment, and paying construction costs.

117.4(4) Funds may not be used for university overhead expenses or for any work that was conducted prior to the term of the contract by the applicant or by any third-party consultant.

117.4(5) The forms of financial assistance may consist of, but are not limited to, loans, forgivable loans, grants and such other forms of assistance the board deems appropriate and consistent with the needs of a given project.

[ARC 9846B, IAB 11/16/11, effective 10/26/11]

261—117.5(84GA, HF590) Leverage of financial assistance required. In order to be eligible for financial assistance, an applicant must demonstrate the ability to secure one dollar of private moneys for every one dollar of financial assistance received from the authority. The board shall consider the amount of private moneys leveraged that is in excess of the minimum matching amount required by this rule and shall make awards of financial assistance to those projects that most efficiently leverage the amount of moneys available in the fund.

[ARC 9846B, IAB 11/16/11, effective 10/26/11]

261—117.6(84GA, HF590) Eligible applicants. An eligible applicant must be located in Iowa, demonstrate the potential for high growth, and be an innovative business.

[ARC 9846B, IAB 11/16/11, effective 10/26/11]

261—117.7(84GA, HF590) Ineligible applicants. The following businesses are not eligible for financial assistance from the fund:

117.7(1) A business which is engaged in retail sales or provides health services.

117.7(2) A business which closes or substantially reduces its workforce by more than 20 percent at an existing operation in order to relocate substantially the same operation to another area of the state. Such a business is ineligible for financial assistance for 36 consecutive months at any of its Iowa sites from the date the new establishment opens.

117.7(3) A business that does not meet the requirements of the federal SSBCI program.

[ARC 9846B, IAB 11/16/11, effective 10/26/11]

261—117.8(84GA, HF590) Application and review process.

117.8(1) An eligible business must submit an application for financial and technical assistance from the fund to the Iowa Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309, on a form provided by the authority. Required forms and instructions are available at this address or in electronic form on the authority's Web site.

117.8(2) To apply for financial assistance from the fund, a business shall submit an application to the authority on a form provided by the authority. The application will be reviewed by authority staff, the committee and the board. The committee will make a recommendation to the board about an application. The board has final decision-making authority on requests for financial assistance from the fund. The board may approve, defer or deny an application.

117.8(3) The authority may contract with third-party service providers for assistance with the evaluation and review of applications.

117.8(4) An application for assistance shall include all information required by the authority including, but not limited to, the following:

a. Proposed product or service. A description of the proposed product or service, the experience of those involved in the proposed project, and the company resources.

b. Market research. A market research analysis that addresses questions such as:

(1) What are the competing or alternative technologies?

(2) What is the advantage of this new approach?

- (3) What are the distribution plans?
 - (4) What is the estimated return on investment?
 - c. Commercialization. A description of the key next steps to making an impact with the innovation and a description of funding requirements necessary to overcome obstacles to success.
 - d. Work plan. A description of the strategy and key elements to be funded to address goals of the work plan, including project milestones.
 - e. Resources and budget. A budget that includes a detailed description of the sources, including the required match, and uses of the funds.
- [ARC 9846B, IAB 11/16/11, effective 10/26/11]

261—117.9(84GA, HF590) Application selection criteria. In reviewing applications for financial assistance, the committee and the board shall consider the following criteria:

117.9(1) Intellectual property, and how the ownership of the IP is structured. More points will be awarded for greater IP control by the business, with the greatest number of points being awarded for exclusive IP ownership by the business.

117.9(2) Experience. The business's experience in productization and commercialization, and ongoing product maintenance.

117.9(3) Estimate to completion.

- a. What are the work requirements; how quickly will the work be completed?
- b. How credible is this estimate relative to the business's experience?
- c. Does the business have the resources to fulfill these requirements?

117.9(4) Market research.

- a. Is there a competitor?
- b. How large is the market outside Iowa?
- c. How credible is the marketing plan?
- d. Does the business have experience in this industry?
- e. Is there an industry in Iowa that would be a natural client/market?

117.9(5) Financial requirement.

- a. Have the matching and necessary funds been secured?
- b. Is the amount of funds available sufficient to take the product to market?

117.9(6) Distribution. Do the channels already exist to take the product to market?

117.9(7) Expected return. Is the expected return quantified based on time to break even and long-term economic impact?

[ARC 9846B, IAB 11/16/11, effective 10/26/11]

261—117.10(84GA, HF590) Contract and reporting.

117.10(1) Notice of award. Successful applicants will be notified in writing of an award of assistance, including any conditions and terms of the approval.

117.10(2) Contract required. The authority shall prepare a contract, which includes, but is not limited to, a description of the project to be completed by the business, conditions to disbursement, required reports, the repayment requirements imposed on the business, the procedures and remedies available if there is an event of default under the contract, and any other specific repayment provisions ("clawback" provisions) to be established on a project-by-project basis.

117.10(3) SSBCI requirements. The contract required pursuant to subrule 117.10(2) shall include any and all provisions necessary for compliance with federal SSBCI program requirements. An applicant shall submit any and all information required by the authority in sufficient detail to permit the authority to prepare the reports required under the federal SSBCI program.

[ARC 9846B, IAB 11/16/11, effective 10/26/11]

These rules are intended to implement 2011 Iowa Acts, House File 590, section 5, subsection 1, and 2011 Iowa Acts, House File 590, section 7.

[Filed Emergency ARC 9846B, IAB 11/16/11, effective 10/26/11]

CHAPTERS 118 to 130
Reserved

CHAPTER 131
[Prior to 9/6/00, see 261—Ch 67]
Rescinded IAB 7/9/03, effective 8/13/03

CHAPTER 132
IOWA EXPORT TRADE ASSISTANCE PROGRAM
[Prior to 11/15/89, see 261—Ch 56]
[Prior to 7/19/95, see 261—Ch 61]
[Prior to 9/6/00, see 261—Ch 68]
[Renumbered IAB 7/4/07; see 261—Ch 72]

CHAPTERS 133 to 162
Reserved

PART XII
ENERGY DIVISION
CHAPTER 400
RULES APPLICABLE TO PART XII

261—400.1(84GA, HF590) Definitions. For purposes of this part, unless the context otherwise requires:

“*Authority*” means the economic development authority created in Iowa Code chapter 15.

“*Board*” means the economic development authority board.

“*Director*” means the director of the economic development authority.

“*Entity*” or “*entities*” includes but is not limited to businesses, nonprofit organizations, educational institutions, units of state and local government, and individuals conducting business, research, or programs in Iowa.

“*Foreign*” means a locality outside of, or nation other than, the United States, Canada, or Mexico.

“*Fund*” means the moneys appropriated in prior fiscal years for purposes of the Iowa power fund created in 2011 Iowa Code section 469.9 and any repayments, recaptures, royalties, or other moneys accruing to the authority as a result of such appropriations.

[ARC 9851B, IAB 11/16/11, effective 10/26/11]

261—400.2(84GA, HF590) Purpose, administrative information, and implementation.

400.2(1) Purpose. In 2011 Iowa Acts, House File 590, the general assembly repealed Iowa Code chapter 469 which established the Iowa power fund, allowed for the provision of financial assistance from the fund to certain energy projects, and provided for the fund’s administration by the office of energy independence. With the repeal of Iowa Code chapter 469, the general assembly transferred to the authority the administration of all outstanding projects funded under the Iowa power fund and the contracts entered into thereunder. The purpose of this part is to allow the authority to administer and wind down the contracts entered into under the power fund legislation before its repeal.

400.2(2) Administrative information. The projects and contracts formerly administered by the office of energy independence are now administered by the authority. The public may obtain information about the Iowa power fund, the office of energy independence, or the office’s projects by contacting the Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3000.

400.2(3) Implementation. This part is intended to implement 2011 Iowa Code chapter 469 and 2011 Iowa Acts, House File 590, division III.

[ARC 9851B, IAB 11/16/11, effective 10/26/11]

These rules are intended to implement 2011 Iowa Acts, House File 590, division III.

[Filed Emergency ARC 9851B, IAB 11/16/11, effective 10/26/11]

CHAPTER 401
ADMINISTRATION OF FINANCIAL ASSISTANCE
[Prior to 11/16/11, see 350—Ch 4]

261—401.1(84GA, HF590) Purpose.

401.1(1) Assistance was awarded under the Iowa power fund for purposes of the following:

- a. Increasing the research, development, production, and use of biofuels and other sources of renewable energy;
- b. Improving energy efficiency;
- c. Reducing greenhouse gas emissions; and
- d. Furthering the research, development, commercialization and distribution of technologies and practices to sustain the environment and develop business in this state.

401.1(2) Each individual project receiving a grant or loan need not meet all of these purposes, but the financial assistance provided, when considered on the whole, shall be consistent with these purposes.
[ARC 9851B, IAB 11/16/11, effective 10/26/11]

261—401.2(84GA, HF590) Appropriations. The fund includes appropriations made to the fund by the general assembly, other moneys available to or obtained or accepted from federal or private sources, interest earned, and repayments and recaptures of loans and grants.
[ARC 9851B, IAB 11/16/11, effective 10/26/11]

261—401.3(84GA, HF590) Control of fund assets. The fund is under the control of the authority. The director shall coordinate the administration of the fund. The board shall approve, defer, or deny applications for financial assistance from moneys appropriated to the fund. The board may amend or wind down contracts entered into for the provision of financial assistance under the fund.
[ARC 9851B, IAB 11/16/11, effective 10/26/11]

261—401.4(84GA, HF590) Allocation of fund moneys.

401.4(1) Moneys available in the fund may be used to provide financial assistance to entities conducting business, research, or programs in Iowa:

- a. To accelerate research and development, knowledge transfer, and technology innovation and improve the economic competitiveness of efforts furthering the goals of the fund stated in rule 261—401.1(84GA, HF590).
- b. To increase the demand for and educate the public about technologies and approaches furthering the goals of the fund stated in rule 261—401.1(84GA, HF590).

401.4(2) Appropriations are subject to actual receipt of moneys by the fund.

401.4(3) Repayments and recaptures of fund moneys may be allocated by the board for purposes of financial assistance under this part or for the administrative costs of the authority.
[ARC 9851B, IAB 11/16/11, effective 10/26/11]

261—401.5(84GA, HF590) Eligible applicants. Entities conducting or proposing or partnering to conduct business, research, or programs in Iowa are eligible to apply to the authority for financial assistance from the fund. Proposals must demonstrate potential for significant impact in Iowa. A single entity or group of entities may submit an application for assistance from the fund.
[ARC 9851B, IAB 11/16/11, effective 10/26/11]

261—401.6(84GA, HF590) Eligibility criteria for financial assistance.

401.6(1) General criteria. Applicants must include documentation relating to the actual or potential development of the following:

- a. Utilization of crops and products grown or produced in this state that maximize the value of crops used as feedstock in biomanufacturing products and as coproducts.
- b. Reduction of greenhouse gas emissions and carbon sequestration.
- c. Commercialization of technology and product development for sale in the national and international market.

- d. Alternative and renewable energy and increased energy efficiency.
- e. Private or federal matching funds.

401.6(2) *Research criteria.* In addition to including documentation related to the general criteria in subrule 401.6(1), applicants seeking funding for research must include information related to the following:

- a. The technical feasibility of the proposal.
- b. The extent to which the proposed research builds on already-existing research.
- c. The extent to which the proposed research meets a market need and demonstrates viability for commercialization.

401.6(3) *Commercialization criteria.* In addition to including documentation related to the general criteria in subrule 401.6(1), applicants seeking funding for commercialization projects must include information related to the following:

- a. The extent to which the technology has been proven.
- b. The technology sought to be commercialized.
- c. The current scale-up status of the project.

401.6(4) *Education criteria.* In addition to including documentation related to the general criteria in subrule 401.6(1), applicants seeking funding for educational projects must include information related to the following:

- a. The target audience, including the estimated number of people targeted.
- b. An estimate of the energy savings possible or fossil fuel reductions achievable if the target audience implements the methods presented.

401.6(5) *Undesignated projects criteria.* In addition to including documentation related to the general criteria in subrule 401.6(1), applicants seeking funding for undesignated projects must include information that explains how the project meets the statutory goals of the fund.

[ARC 9851B, IAB 11/16/11, effective 10/26/11]

261—401.7(84GA, HF590) Forms of assistance.

401.7(1) *Types of assistance.* Financial assistance from the fund may consist of, but is not limited to, loans, forgivable loans, grants, investments, loan guarantees, and such other forms of assistance the board deems appropriate and consistent with the needs of a given project.

401.7(2) *Eligible uses of funds.* The eligible uses of the funds awarded by the board may be limited at the board's discretion. Generally, funds awarded by the board may not be used to fund the purchase of land or buildings, and no more than 10 percent of the funds awarded per application may be used for indirect costs.

[ARC 9851B, IAB 11/16/11, effective 10/26/11]

261—401.8(84GA, HF590) Application process.

401.8(1) *Preapplication.* To apply for moneys from the fund, an applicant shall submit a preapplication to the authority in a form provided by the authority on behalf of the board. The preapplication serves as an executive summary of the applicant's proposal. The authority shall review preapplications and request full applications for those projects that appear to meet the eligibility criteria and statutory goals of the fund.

401.8(2) *Full application.* An applicant requested to submit a full application shall submit such application to the authority in a form provided by the authority on behalf of the board. The authority shall review the full applications and any technical, scientific or financial review completed and make recommendations to the board. The board shall review the applications and make the final decision. The board shall have final authority to approve, defer, or deny such applications. The board or the authority may request additional information at any time and proceed with consideration of the application when that information is received.

401.8(3) *Technical, scientific or financial review.* The board or the authority may request an applicant to obtain a technical, scientific or financial review of a proposal which may wholly or partially be funded at the applicant's expense. The review may be obtained from a reviewer recommended by the board or the authority or may be obtained from a reviewer selected by the applicant and approved in advance by

the board or the authority. Only reviews from reviewers recommended by or approved by the board or the authority will be accepted.

401.8(4) Agency review. The authority may refer proposals to other state agencies for review as appropriate.

401.8(5) Ongoing acceptance of applications. Applications shall be accepted by the authority on behalf of the board on an ongoing basis. Review times will vary due to the complexity and diversity of applications.

401.8(6) Forms and directions. Application forms and directions for completing the forms are available from the authority.

[ARC 9851B, IAB 11/16/11, effective 10/26/11]

261—401.9(84GA, HF590) Confidentiality.

401.9(1) Period of confidentiality. All information contained in an application for financial assistance submitted to the board shall remain confidential while the board is reviewing the application, processing requests for confidentiality, negotiating with the applicant, and preparing the application for consideration by the board.

401.9(2) Release of information for technical review. The board may release certain information in an application for financial assistance to a third party for technical review. If the board releases such information, the board shall ensure that the third party protects such information from public disclosure.

401.9(3) Applicant request for confidentiality. An applicant may make a written request to the board to keep confidential certain details of an application, contract, or the material submitted in support of an application or a contract. If the request includes a sufficient explanation as to why the public disclosure of such details would give an unfair advantage to competitors, the board shall keep such details confidential.

401.9(4) Criteria for determining confidential treatment. In determining whether to grant a request for confidential treatment of applicant information, the board must appropriately balance an applicant's need for confidentiality against the public's right to information about the board's activities. The board may consider the following:

- a. The nature and extent of competition in the applicant's industry sector.
- b. The likelihood of adverse financial impact to the applicant if the information were to be released.
- c. The risk that the applicant would locate in another state if the request is denied.
- d. Any other factors the board may reasonably consider relevant.

401.9(5) Confidentiality decision. The board shall notify an applicant in writing of its decision regarding the confidentiality of an application, contract, or supporting materials. Once the board has notified the applicant of its decision, any information not deemed confidential by the board shall be made publicly available. Any information deemed confidential by the board shall be kept confidential by the authority and the board during and following the administration of a contract executed pursuant to a successful application.

401.9(6) Withdrawal of application. If the board denies an applicant's request for confidentiality, the applicant may withdraw an application and any supporting materials. The board shall not retain any copies of the application and supporting materials. Upon notice that an application has been withdrawn, the board shall not release a copy in response to a request for records pursuant to Iowa Code chapter 22.

[ARC 9851B, IAB 11/16/11, effective 10/26/11]

261—401.10(84GA, HF590) Contents of full application. A full application to request assistance from the fund shall include, but not be limited to, the following:

401.10(1) Documentation that the applicant meets the eligibility criteria stated in rules 261—401.5(84GA, HF590) and 261—401.6(84GA, HF590).

401.10(2) A description that explains how the applicant's project will promote one or more of the goals of the fund as set forth in rule 261—401.1(84GA, HF590).

401.10(3) A description of the proposed project, including all sources and uses of funding, the amount and type of funding requested, and an identification of the community or location for the project.

401.10(4) Information regarding benefits to the state of Iowa from the proposed project in terms of the state's return on investment in the project. A recipient of power fund moneys shall provide to the

board on a periodic basis as determined by the board a report on the use and effectiveness of the moneys granted or loaned.

401.10(5) A business plan, schedule of work, or equivalent that describes the applicant's current operations and future plans.

401.10(6) If applicable, a description of the applicant's violations of law in the preceding five years including, but not limited to, worker safety statutes, rules, and regulations. The description must include violations of any federal or state environmental protection statute, regulation, or rule within the previous five years. If the violations seriously affected the public health or safety, or the environment, the applicant shall provide an explanation of any mitigating circumstances and corrective action taken to achieve compliance. If requested by the authority, the applicant shall provide copies of materials documenting the type of violation, any fees or penalties assessed, court filings, final disposition of any findings, and other information that would assist the authority or the board in understanding the nature of the violation.

401.10(7) A certification by the applicant that the information provided in the application is true and accurate to the best of the applicant's knowledge.

401.10(8) A release of information to permit the authority and the board, and their respective attorneys and agents, to reasonably evaluate the application.

401.10(9) Financial information to the extent requested by the board, including, if applicable, information about the applicant's owners, investors, and business structure.

[ARC 9851B, IAB 11/16/11, effective 10/26/11]

261—401.11(84GA, HF590) Selection criteria. The board shall seek to maintain flexibility when making decisions to allocate moneys from the fund to specific proposals. In reviewing applications for financial assistance, the board shall consider the extent to which the proposal is consistent with the energy independence plan as developed in accordance with 2011 Iowa Code section 469.4 and consistent with the statutory purposes of the fund as described in subrule 401.1(1). In addition, the board shall consider the following:

401.11(1) Proposal categories.

a. The board may allocate moneys from the fund annually to projects in any or all of the following categories:

- (1) Commercialization.
- (2) Research.
- (3) Education.
- (4) Undesignated.

b. The allocation of moneys by the board to proposals in these categories is discretionary and depends on factors including, but not limited to, the quality and quantity of the applications submitted.

401.11(2) Financial assistance.

a. The board will consider whether the applicant has available financial resources in addition to the fund to support the proposal financially. In assessing available financial resources, the board may:

- (1) Consider both private and public funds as available financial resources.
- (2) Recognize the contribution of in-kind resources.
- (3) Require a match of available financial resources for commercialization proposals.
- (4) Give weight to available financial resources for research, education, or other undesignated proposals.

b. The significance of the availability of financial resources may be weighed by the board in its discretion when allocating moneys from the fund for specific proposals.

[ARC 9851B, IAB 11/16/11, effective 10/26/11]

261—401.12(84GA, HF590) Contract administration.

401.12(1) Notice of award. Applicants will be notified in writing of the board's decision, including any conditions and terms of approval.

401.12(2) Contract required. The board shall direct the authority to prepare an agreement which includes, but is not limited to, a description of the project to be completed by the recipient; length of the project period; conditions to disbursement as approved by the board; a requirement for a report,

to be made to the board on a periodic basis determined by the board, on the use and effectiveness of financial assistance from the fund; and the reimbursement requirements of the recipient or other penalties imposed on the recipient in the event the recipient does not meet the commitments set forth in the contract, in the documentation provided to establish eligibility, or in other specific repayment provisions (“clawback” provisions) to be established on a project-by-project basis. Successful applicants shall execute an agreement within 120 days of the approval. Failure to do so may result in action by the board to revoke the award. The 120-day time limit may be extended by the board for good cause shown. No award is final until an agreement is signed by all parties.

401.12(3) *Contract amendments.* Any substantive change to a funded project will require a contract amendment. Such an amendment may be approved by the board or, if allowed by subrule 401.12(4), the amendment may be approved by the authority. Substantive changes include, but are not limited to, contract time extensions, budget revisions, and significant alterations of existing activities or beneficiaries.

401.12(4) *Situations not requiring board approval.* The authority may take final action on budget revision amendments that would not substantially change the terms or conditions of the award or contract, on the discontinuance or suspension of collection efforts, and on negotiated settlements for projects that do not meet contract requirements. The authority may decide to take final action or to refer the matter to the full board for action.

401.12(5) *Intellectual property.* The director shall promote statewide utilization of the results of research, development, and commercialization activities funded in whole or in part by the fund. The director is authorized to negotiate provisions with applicants that address issues relating to income generated from patents, trademarks, licenses, or royalties expected to be produced as a result of moneys proposed to be expended from the fund. The director may seek assistance from appropriate state agencies and may seek outside expertise. An applicant shall not be prevented from protecting any previously developed intellectual property.

[ARC 9851B, IAB 11/16/11, effective 10/26/11]

These rules are intended to implement 2011 Iowa Acts, House File 590, division III.

[Filed Emergency ARC 9851B, IAB 11/16/11, effective 10/26/11]

CHAPTER 402
ENERGY EFFICIENCY COMMUNITY GRANT PROGRAM
[Prior to 11/16/11, see 350—Ch 5]

261—402.1(84GA, HF590) Purpose. The purpose of the energy efficiency community grant program is to make funding available to local communities for energy efficiency projects or programs. The program is established with moneys from the fund, which is under the administration of the authority.
[ARC 9851B, IAB 11/16/11, effective 10/26/11]

261—402.2(84GA, HF590) Definitions. For purposes of this chapter, unless the context otherwise requires:

“*Eligible applicant*” means a city, county, nonprofit organization, organization involved with energy efficiency or conservation efforts, environmental organization, or group that has a tax identification number.

“*Eligible project*” means any project or program that would save energy dollars or energy units.

“*In kind*” means any matching funds in the form of salaries and materials. Equipment and indirect costs will not be counted as in-kind matching funds. Volunteer hours that are submitted for salary match must use an hourly rate equivalent to the average national hourly earnings of all production and nonsupervisory workers on private, nonfarm payrolls as determined by the U.S. Bureau of Labor Statistics.

[ARC 9851B, IAB 11/16/11, effective 10/26/11]

261—402.3(84GA, HF590) Requests for applications. The authority shall determine the form of the application and manage requests for applications as necessary.

[ARC 9851B, IAB 11/16/11, effective 10/26/11]

261—402.4(84GA, HF590) Geographic distribution. Consideration will be given to applications based on distribution throughout Iowa’s congressional districts. The authority may consider multiple applications from the same community. The authority may take into account geographic distribution in determining awards.

[ARC 9851B, IAB 11/16/11, effective 10/26/11]

261—402.5(84GA, HF590) Criteria for review. In reviewing applications, the authority shall consider the following.

402.5(1) Promotion of energy efficiency or renewable generation. The authority shall consider the project’s potential promotion of residential or small-scale renewable energy systems and the project’s ability to reduce energy consumption, energy units, or dollars spent on energy.

402.5(2) Collaboration. The authority shall consider the following:

a. Whether the project establishes or supports a community-based, county-based or regional energy efficiency project or program.

b. The breadth and depth of community, county or regional involvement in the energy efficiency project or program.

c. The involvement of local schools, civic organizations, chambers of commerce, and private groups.

d. The project’s support of any existing or proposed ordinances encouraging energy efficiency and conservation or energy efficient building code provisions and enforcement.

e. The project’s efforts to secure local funding for the community-based, county-based or regional energy efficiency project or program or for a funding sustainability plan.

[ARC 9851B, IAB 11/16/11, effective 10/26/11]

261—402.6(84GA, HF590) Project approval and award of funds. Projects shall be approved by the director after review and recommendation by authority personnel. All funding decisions shall be reported

monthly to the board. Funds will be distributed to approved projects based on mutually agreed-upon contract terms.

[ARC 9851B, IAB 11/16/11, effective 10/26/11]

These rules are intended to implement 2011 Iowa Acts, House File 590, division III.

[Filed Emergency ARC 9851B, IAB 11/16/11, effective 10/26/11]

CHAPTERS 403 to 409
Reserved

CHAPTER 28
PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSURE FEES

641—28.1(105) Fees. All fees are nonrefundable.

28.1(1) License fee for:

- a.* An apprentice license as defined in 641—subrule 29.2(1) is \$50.
- b.* A journey license as defined in 641—subrule 29.2(2) is \$50.
- c.* A master license as defined in 641—subrule 29.2(3) is \$125.
- d.* A medical gas pipe certificate as defined in 641—29.3(105) is \$50.
- e.* An inactive license as defined in 641—subrules 29.2(5) and 29.2(6) is \$50.
- f.* A contractor license as defined in 641—subrule 29.2(4) is \$150.
- g.* A special restricted license as defined in 641—subrules 29.2(8), 29.2(9), 29.2(10), and 29.2(11) is \$50.

28.1(2) Reciprocal license fee for:

- a.* An apprentice license as defined in 641—subrule 29.2(1) is \$50.
- b.* A journey license as defined in 641—subrule 29.2(2) is \$50.
- c.* A master license as defined in 641—subrule 29.2(3) is \$125.

28.1(3) Renewal license fee for:

- a.* An apprentice license as defined in 641—subrule 29.2(1) is \$50.
- b.* A journey license as defined in 641—subrule 29.2(2) is \$50.
- c.* A master license as defined in 641—subrule 29.2(3) is \$125.
- d.* A medical gas pipe certificate as defined in 641—29.3(105) is \$50.
- e.* An inactive license as defined in 641—subrules 29.2(5) and 29.2(6) is \$50.
- f.* A contractor license as defined in 641—subrule 29.2(4) is \$150.
- g.* A special restricted license as defined in 641—subrules 29.2(8), 29.2(9), 29.2(10), and 29.2(11) is \$50.
- h.* The renewal fee shall be waived for all licenses renewed from January 1, 2011, through December 31, 2012. However, if applicable, late fees as set forth in subrule 28.1(5) and paper application fees as set forth in subrule 28.1(10) will be applied.

28.1(4) The examination application fee is \$35.

28.1(5) A late fee for failure to renew before expiration is determined as follows:

- a.* A licensee who allows a license to lapse for 30 days or less may reinstate and renew the license with payment of the appropriate renewal fee and without payment of a late fee.
- b.* A licensee who allows a license to lapse for more than 30 days but less than 60 days may reinstate and renew the license without examination upon payment of a \$60 late fee and the appropriate renewal of license fee.
- c.* A licensee who allows a license to lapse for more than 60 days is required to retake and pass the applicable licensing examination and pay the appropriate renewal of license fee in order to obtain reinstatement. A licensee whose license has lapsed continues to hold the privilege of licensure in Iowa, but may not work as a plumbing or mechanical professional or contractor in Iowa until the license is renewed. A licensee who works as a plumbing or mechanical professional, including under a special restricted license, works as a geothermal heat pump installer, or operates as a contractor in the state of Iowa with a lapsed license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code chapter 105, criminal sanctions pursuant to Iowa Code chapter 105, and other available legal remedies.

28.1(6) The duplicate or reissued license certificate or wallet card fee is \$20.

28.1(7) The fee for written verification of licensee status is \$20.

28.1(8) The returned check fee is \$25.

28.1(9) The disciplinary hearing fee is a maximum of \$75.

28.1(10) The paper application fee is \$25 plus the appropriate license fee.

28.1(11) Combined license.

a. For purposes of this subrule, “combined license” shall mean more than one active master or journeyman license under subrules 28.1(1) through 28.1(3) in one or multiple disciplines.

b. A license fee for a combined license shall be the sum total of each of the separate license fees reduced by 30 percent.

c. In order to be eligible for the combined license fee reduction, all individual licenses must be purchased in a single transaction.

[Editorial change: IAC Supplement 2/25/09; **ARC 8529B**, IAB 2/24/10, effective 1/26/10; **ARC 9603B**, IAB 7/13/11, effective 6/21/11; **ARC 9847B**, IAB 11/16/11, effective 12/21/11]

641—28.2(105) Annual review of fee schedule. Within 60 days following the end of each fiscal year, the board shall submit a report to the general assembly that includes a balance sheet projection extending no less than three years. If the revenue projection exceeds the expense projections by more than 10 percent, the board shall adjust the fee schedules so that projected revenues are no more than 10 percent higher than projected expenses. Revised fees shall be implemented no later than January 1, 2013, and January 1 of each subsequent year.

[**ARC 9603B**, IAB 7/13/11, effective 6/21/11; **ARC 9847B**, IAB 11/16/11, effective 12/21/11]

These rules are intended to implement Iowa Code chapter 105 as amended by 2011 Iowa Acts, House File 392, and chapter 272C.

[Filed emergency 12/23/08 after Notice 11/5/08—published 1/14/09, effective 1/1/09]

[Editorial change: IAC Supplement 2/25/09]

[Filed Emergency After Notice ARC 8529B (Notice ARC 8361B, IAB 12/2/09), IAB 2/24/10, effective 1/26/10]

[Filed Emergency ARC 9603B, IAB 7/13/11, effective 6/21/11]

[Filed ARC 9847B (Notice ARC 9610B, IAB 7/13/11), IAB 11/16/11, effective 12/21/11]

CHAPTER 29
PLUMBING AND MECHANICAL SYSTEMS BOARD—
APPLICATION, LICENSURE, AND EXAMINATION

641—29.1(105) Definitions. For purposes of these rules, the following definitions shall apply:

“Applicable” means having relevance; appropriate.

“Apprentice” means any person, other than a helper, journeyman, or master, who, as a principal occupation, is engaged in working as an employee of a plumbing, HVAC, refrigeration, or hydronic systems contractor under the supervision of either a master or a journeyman and is progressing toward completion of an apprenticeship training program registered by the Office of Apprenticeship of the United States Department of Labor while learning and assisting in the design, installation, and repair of plumbing, HVAC, refrigeration, or hydronic systems, as applicable.

“Board” means the plumbing and mechanical systems board.

“Corresponding” means the same discipline.

“Department” means the Iowa department of public health.

“Disconnect/reconnect plumbing technician specialty license” means a sublicense under a plumbing license to perform work from the appliance shutoff valve or fixture shutoff valve to the appliance or fixture and any part or component of the appliance or fixture, including the disconnection and reconnection of the existing appliance or fixture to the water or sewer piping and the installation of a shutoff valve no more than 3 feet from the appliance or fixture.

“Emergency repairs” means the repair of water pipes to prevent imminent damage to property.

“Hearth systems specialty license” means a sublicense under an HVAC license to perform work in the installation of gas burning and solid fuel appliances that offer a decorative view of the flames, from the connector pipe to the shutoff valve located within 3 feet of the appliance. This sublicense is further allowed to perform work in the venting systems, log lighters, gas log sets, fireplace inserts, and freestanding stoves.

“HVAC” means heating, ventilation, air conditioning, ducted systems, or any type of refrigeration used for food processing or preservation. “HVAC” includes all natural, propane, liquid propane, or other gas lines associated with any component of an HVAC system.

“Hydronic” means a heating or cooling system that transfers heating or cooling by circulating fluid through a closed system, including boilers, pressure vessels, refrigerated equipment in connection with chilled water systems, all steam piping, hot or chilled water piping together with all control devices and accessories, installed as part of, or in connection with, any heating or cooling system or appliance using a liquid, water, or steam as the heating or cooling media. “Hydronic” includes all low-pressure and high-pressure systems and all natural, propane, liquid propane, or other gas lines associated with any component of a hydronic system.

“Inactive license” means a license that is available for a plumbing, HVAC, refrigeration, or hydronic professional who is not actively engaged in running a business or working in the business in the corresponding discipline at that license level.

“Journeyman” means any person, other than a master, who, as a principal occupation, is engaged as an employee of, or otherwise working under the direction of, a master in the design, installation, and repair of plumbing, HVAC, refrigeration, or hydronic systems, as applicable.

“Licensee” means a person or entity licensed to operate as a contractor or work in the plumbing, HVAC, refrigeration, or hydronic disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board.

“Master” means any person who works in the planning or superintending of the design, installation, or repair of plumbing, HVAC, refrigeration, or hydronic systems and is otherwise lawfully qualified to conduct the business of plumbing, HVAC, refrigeration, or hydronic systems, and who is familiar with the laws and rules governing the same.

“Mechanical systems” means HVAC, refrigeration, and hydronic systems.

“Medical gas system installer” means any person who installs or repairs medical gas piping, components, and vacuum systems, including brazers, who has been issued a valid certification from

the National Inspection Testing Certification (NITC) Corporation, or an equivalent authority approved by the board.

“Plumbing” means all potable water building supply and distribution pipes, all plumbing fixtures and traps, all drainage and vent pipes, and all building drains and building sewers, storm sewers, and storm drains, including their respective joints and connections, devices, receptors, and appurtenances within the property lines of the premises, and including the connection to sanitary sewer, storm sewer, and domestic water mains. “Plumbing” includes potable water piping, potable water treating or using equipment, medical gas piping systems, fuel gas piping, water heaters and vents, including all natural, propane, liquid propane, or other gas lines associated with any component of a plumbing system.

“Refrigeration” means any system of refrigeration regardless of the level of power, if such refrigeration is intended to be used for the purpose of food processing and product preservation and is also intended to be used for comfort systems. “Refrigeration” includes all natural, propane, liquid propane, or other gas lines associated with any component of refrigeration.

“Routine maintenance” means the maintenance, repair, or replacement of existing fixtures or parts of plumbing, HVAC, refrigeration, or hydronic systems in which no changes in original design are made. Fixtures or parts do not include smoke and fire dampers or water, gas or steam piping permanent repairs except for traps or strainers. Routine maintenance shall include emergency repairs. “Routine maintenance” does not include the replacement of furnaces, boilers, cooling appliances, or water heaters more than 100 gallons in size.

“Service technician HVAC specialty license” means a sublicense under an HVAC license to perform work from the appliance shutoff valve to the appliance and any part and component of the appliance, including the disconnection and reconnection of the existing appliance to the gas piping and the installation of a shutoff valve no more than 3 feet away from the appliance.

“Surety bond” means a performance bond written by an entity licensed to do business in this state which guarantees that a contractor will fully perform the contract and which guarantees against breach of that contract.

[ARC 8530B, IAB 2/24/10, effective 1/26/10; ARC 9604B, IAB 7/13/11, effective 6/21/11; ARC 9849B, IAB 11/16/11, effective 12/21/11]

641—29.2(105) Available licenses and general requirements. Effective January 1, 2011, all licenses issued by the board will be for a three-year period. All licenses issued prior to January 1, 2011, will be for a two-year period. Subject to the general requirements set forth herein and the minimum qualifications for licensure set forth in rule 641—29.4(105), the following licenses are available:

29.2(1) Apprentice license. An applicant for an apprentice license shall:

- a. File an application and pay application fees in accordance with 641—29.5(105).
- b. Be enrolled in an applicable apprentice program which is registered with the United States Department of Labor Office of Apprenticeship.
- c. Certify that the applicant will work under the supervision of a licensed journeyman or master in the applicable discipline by providing the department with the United States Department of Labor Office of Apprenticeship identification number and sponsor identification number.

29.2(2) Journeyman license.

- a. An applicant for a journeyman license shall:
 - (1) File an application and pay application fees in accordance with rule 641—29.5(105).
 - (2) Pass the state journeyman licensing examination in the applicable discipline.
 - (3) Provide the board with evidence that the applicant has completed at least four years of practical experience as an apprentice. Commencing January 1, 2010, the four years of practical experience required by this paragraph must be an apprenticeship training program registered by the United States Department of Labor Office of Apprenticeship. Documentation must be submitted on a form provided by the board.

b. Notwithstanding the journeyman licensure requirements set forth in paragraph 29.2(2)“a,” an applicant who possesses a master level license and who seeks a journeyman license in the same discipline shall file an application and pay application fees in accordance with rule 641—29.5(105).

29.2(3) Master license. An applicant for a master license shall:

- a. File an application and pay application fees in accordance with rule 641—29.5(105).
- b. Pass the state master licensing examination for the applicable discipline.
- c. Provide the board with evidence that the applicant:
 - (1) Has previously been licensed as a master in the applicable discipline; or
 - (2) Has previously been licensed as a journeyperson in the applicable discipline and has at least two years of journeyperson experience in the applicable discipline.

29.2(4) Contractor license. An applicant for a contractor license shall:

- a. File an application and pay application fees in accordance with rule 641—29.5(105).
- b. Provide the applicant's Iowa workforce development contractor registration number.
- c. Provide the board with evidence that the applicant maintains a permanent place of business.
- d. Provide the board with evidence of a public liability insurance policy issued by an entity licensed to do business in this state with a minimum coverage amount of \$500,000 and:
 - (1) If the applicant operates the contractor business as a sole proprietorship, provide the board with evidence that the applicant personally obtained the policy, or
 - (2) If the applicant operates the contractor business as an employee or owner of a legal entity, provide the board with evidence that the insurance policy is obtained by the entity and that the insurance covers all plumbing or mechanical work performed by the entity.
- e. Provide the board with evidence of a surety bond issued by an entity licensed to do business in this state in a minimum amount of \$5,000 and:
 - (1) If the applicant operates the contractor business as a sole proprietorship, provide the board with evidence that the applicant personally obtained the surety bond, or
 - (2) If the applicant operates the contractor business as an employee or owner of a legal entity, provide the board with evidence that the surety bond was obtained by the entity and that the surety bond covers all plumbing or mechanical work performed by the entity.
- f. Provide a certificate to the board that the public liability insurance policy required under paragraph 29.2(4)“d” and the surety bond required under paragraph 29.2(4)“e” shall not be canceled without the entity first giving 15 days' written notice to the board.
- g. Provide the board with evidence that the applicant holds an active master license or employs at least one person who holds an active master license issued under Iowa Code chapter 105 for each discipline in which the applicant performs chapter 105-covered work.

29.2(5) Active journeyperson license/inactive master license combination. An applicant for an active journeyperson license and an inactive master license in the same discipline shall:

- a. File an application and pay application fees for both an active journeyperson license and an inactive master license in accordance with rule 641—29.5(105).
- b. Provide the board with evidence that the applicant meets the requirements for master licensure under subrule 29.2(3).
- c. Provide evidence that the applicant is not performing plumbing, HVAC, refrigeration, or hydronic work for which a master license is required.
- d. Acknowledge awareness that the applicant is unable to perform any plumbing, HVAC, refrigeration, or hydronic work for which a master license is required so long as the applicant's master license is held in inactive status.

29.2(6) Inactive license. An applicant for an inactive license that does not fall within subrule 29.2(5) shall:

- a. File an application and pay application fees in accordance with rule 641—29.5(105).
- b. Provide the board with evidence that the applicant meets the requirements for licensure under rule 641—29.2(105) at the applicable licensure level.
- c. Provide the board with evidence that the applicant is not actively engaged working in the plumbing, HVAC, refrigeration, or hydronic disciplines for which licensure is required.
- d. Acknowledge awareness that the applicant is unable to perform any plumbing, HVAC, refrigeration, or hydronic work for which licensure is required so long as the applicant's license is held in inactive status.

29.2(7) Service technician HVAC specialty license. An applicant for a service technician HVAC specialty license shall:

- a. File an application and pay application fees in accordance with rule 641—29.5(105).
- b. Provide the board with evidence that:

(1) The applicant possesses a valid certification from North American Technician Excellence, Inc. or an equivalent authority approved by the board, or

(2) The applicant completed a Service Technician Associate degree or equivalent educational or similar training approved by the board.

29.2(8) Disconnect/reconnect plumbing technician specialty license. An applicant for a disconnect/reconnect plumbing technician specialty license shall:

- a. File an application and pay application fees in accordance with rule 641—29.5(105).
- b. Provide the board with evidence that:

(1) The applicant is receiving or has previously received industry training to perform work covered under this specialty license, or

(2) The applicant completed a Service Technician Associate degree or equivalent educational or similar training approved by the board.

29.2(9) Private school or college routine maintenance specialty license. An applicant for a private school or college routine maintenance specialty license shall:

- a. File an application and pay application fees in accordance with rule 641—29.5(105).

b. Provide the board with evidence that the applicant is currently employed by a private school or college.

c. Provide the board with evidence that the applicant is performing routine maintenance within the scope of employment with the private school or college.

29.2(10) Hearth systems specialty license. An applicant for a hearth systems specialty license shall:

- a. File an application and pay application fees in accordance with rule 641—29.5(105).

b. Provide the board with evidence that the applicant possesses a valid certification issued by the National Fireplace Institute or equivalent authority approved by the board.

[ARC 8530B, IAB 2/24/10, effective 1/26/10; ARC 9604B, IAB 7/13/11, effective 6/21/11; ARC 9849B, IAB 11/16/11, effective 12/21/11]

641—29.3(105) Medical gas piping certification. The following certification is required for a person who performs work as a medical gas system installer. An applicant for a medical gas certificate shall:

29.3(1) File an application and pay applicable fees.

29.3(2) Possess valid certification from the National Inspection Testing Certification (NITC) Corporation, or an equivalent authority approved by the board. Documentation must be submitted on a form provided by the board.

[ARC 8530B, IAB 2/24/10, effective 1/26/10]

641—29.4(105) Minimum qualifications for licensure. The following minimum requirements shall apply to all licenses issued after July 1, 2008.

29.4(1) An applicant for any type of license must be at least 18 years old.

29.4(2) Effective January 1, 2010, all apprentice applicants must have completed a high school education or attained GED equivalent.

29.4(3) An applicant shall have no record of felony conviction relating to the profession as determined by the board.

29.4(4) Rescinded IAB 2/24/10, effective 1/26/10.

[ARC 8530B, IAB 2/24/10, effective 1/26/10]

641—29.5(105) General requirements for application for licensure. The following criteria shall apply to application for licensure.

29.5(1) On-line or paper application.

a. An applicant shall complete a board-approved application either on-line or on a paper application according to instructions contained in the application.

b. Applications can be completed on-line or on a paper application. Paper applications are available to download at <http://www.idph.state.ia.us/eh/plumbing.asp> or from the board office by writing to: Plumbing and Mechanical Systems Board, Iowa Department of Public Health, 312 E. 12th Street, 5th Floor, Des Moines, Iowa 50319-0075, or by calling 1-866-280-1521.

29.5(2) Fees. In order to be processed, each application must be accompanied by the appropriate fees as determined by the board. All fees are nonrefundable.

a. On-line application fees shall be paid by credit card only.

b. A paper application shall be accompanied by the appropriate fees payable by check or money order to the Iowa Plumbing and Mechanical Systems Board.

29.5(3) If the applicant is notified that the application is incomplete, the applicant must contact the board office within 90 days. The board may be contacted at: Plumbing and Mechanical Systems Board, Iowa Department of Public Health, 312 E. 12th Street, 5th Floor, Des Moines, Iowa 50319, or by calling 1-866-280-1521.

29.5(4) No application will be considered by the board without the appropriate verifiable documentation. An applicant must submit the following verifiable documentation:

a. A passing score for a discipline-appropriate examination provided by the testing vendor under contract with the board, when testing is required for a license.

b. Verification that the applicant has met the minimum requirements as defined in 641—29.4(105) and the established employment experience criteria for each type of license.

29.5(5) Complete applications shall be filed with the plumbing and mechanical systems board. Incomplete applications shall be considered invalid and after 90 days shall be destroyed.

[ARC 8530B, IAB 2/24/10, effective 1/26/10]

641—29.6(105) Examination.

29.6(1) An applicant for licensure as a plumbing or mechanical system professional that requires a state licensing examination must successfully pass the licensing examination for the discipline.

a. The examination will be administered by the board-approved vendor.

b. The board shall approve the specific examination to be used for each license type.

c. Rescinded IAB 2/24/10, effective 1/26/10.

29.6(2) Examination requirements.

a. The examination will be written and proctored by a nationally recognized testing agency selected by the board through a competitive bid process.

b. The examination will be offered periodically during the year. The time and location will rotate between multiple sites in the state of Iowa, as determined by the department, with approval of the board.

c. The examination will not be subject to review by applicants. The testing vendor shall, upon request from an applicant, provide information about the sections that the applicant failed, but shall not provide an applicant access to actual examination questions or answers. Any fees associated with the review process will be assessed by and payable to the testing vendor. The applicant is responsible for paying all associated examination fees.

d. A score of 75 percent or better will be considered passing.

29.6(3) Examination application requirements.

a. An applicant shall complete and submit a board-approved examination application either on-line or on a paper application a minimum of 15 business days prior to taking an examination. An applicant shall complete the application form according to instructions contained in the application.

b. Examination applications can be completed on-line or on a paper application. Paper applications are available to download at <http://www.idph.state.ia.us/eh/plumbing.asp> or from the board office by writing to: Plumbing and Mechanical Systems Board, Iowa Department of Public Health, 312 E. 12th Street, 5th Floor, Des Moines, Iowa 50319-0075, or by calling 1-866-280-1521.

c. Fees. In order to be processed, each application must be accompanied by the appropriate fees as determined by the board. All fees are nonrefundable.

(1) On-line examination application fees shall be paid by credit card only.

(2) A paper examination application shall be accompanied by the appropriate fees payable by check or money order to the Iowa Plumbing and Mechanical Systems Board.

d. No application will be considered by the board without the appropriate verifiable documentation.

e. The applicant will be notified and issued an examination entrance letter upon approval of the examination application.

f. If the applicant is notified that the application is incomplete, the applicant must contact the board office within 90 days. The board may be contacted at: Plumbing and Mechanical Systems Board, Iowa Department of Public Health, 312 E. 12th Street, 5th Floor, Des Moines, Iowa 50319, or by calling 1-866-280-1521.

g. Incomplete applications shall be considered invalid and after 90 days shall be destroyed.

h. Examination fees shall be payable directly to the board-approved testing vendor.

(1) All transactions shall be the responsibility of the applicant and testing vendor.

(2) The board shall not be held responsible for refunds from the testing vendor.

i. An applicant shall present current photo identification in order to sit for the examination.

j. An applicant for licensure by examination who does not pass the examination within one year from the original application date will be required to submit a new application.

k. A master examination applicant shall not receive permission to sit for a master examination unless the applicant establishes that the applicant:

(1) Has previously been licensed as a master in the applicable discipline; or

(2) Has previously been licensed as a journeyman in the applicable discipline and has at least two years of journeyman experience in the applicable discipline.

l. A journeyman examination applicant may apply to sit for the examination up to 6 months prior to completion of the 48 months of required apprentice credit, which shall include the granting of advanced standing or credit for previously acquired experience, training, or skills.

29.6(4) Expiration of passing examination score. An applicant who successfully passes an examination must apply for licensure in the applicable discipline at the applicable discipline level within two years of notification that the applicant successfully passed the examination. A passing examination score shall expire if the applicant fails to apply for licensure within the two-year period as set forth herein, and the applicant shall be required to successfully retake said examination to become licensed in the applicable discipline at the applicable discipline level.

[**ARC 8530B**, IAB 2/24/10, effective 1/26/10; **ARC 9604B**, IAB 7/13/11, effective 6/21/11; **ARC 9849B**, IAB 11/16/11, effective 12/21/11]

641—29.7(105) License renewal.

29.7(1) The period of licensure to operate as a contractor or work as a master, journeyman or apprentice in the plumbing, HVAC, refrigeration, or hydronic disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board shall be for a period of three years.

a. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license.

b. The licensee is responsible for renewing the license prior to its expiration.

c. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

29.7(2) Specific renewal requirements.

a. A licensee seeking renewal shall:

(1) Meet the continuing education requirements as set forth in rule 641—30.2(105). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

(2) Submit the completed renewal application and renewal fee before the license expiration date.

(3) Provide evidence that the licensee continues to meet the general requirements for licensure under rule 641—29.2(105).

b. Failure to renew a license within two months after the expiration of the license shall not invalidate the license, but a reasonable penalty may be assessed as adopted by rule, in addition to the license renewal fee, to allow reinstatement of the license.

(1) A licensee who allows a license to lapse for 30 days or less may reinstate and renew the license without examination upon payment of the appropriate renewal of license fee as defined in 641—subrule 28.1(5).

(2) A licensee who allows a license to lapse for more than 30 days but less than 60 days may reinstate and renew the license without examination upon payment of a \$60 late fee and the appropriate renewal of license fee as defined in 641—subrule 28.1(5).

c. A licensee who allows a license to lapse for more than 60 days is required to retake and pass the applicable licensing examination and pay the appropriate renewal of license fee as defined in 641—subrule 28.1(5) in order to obtain reinstatement and renewal of that person's license.

(1) A licensee who fails to renew the license by the end of the two-month period has a lapsed license.

(2) A licensee whose license is lapsed may not operate as a contractor or work in the plumbing, HVAC, refrigeration, or hydronic disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board until the license is reinstated and renewed.

(3) A licensee who operates as a contractor or works in the plumbing, HVAC, refrigeration, or hydronic disciplines or works as a certified medical gas system installer or works in the specialty license disciplines developed by the board in the state of Iowa with a lapsed license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code chapter 105, criminal sanctions pursuant to Iowa Code chapter 105, and other available legal remedies.

[ARC 8530B, IAB 2/24/10, effective 1/26/10; ARC 9604B, IAB 7/13/11, effective 6/21/11; ARC 9849B, IAB 11/16/11, effective 12/21/11]

641—29.8(83GA, HF2531) Master license—exception through September 30, 2010.

29.8(1) Notwithstanding paragraph 29.6(3) “*k*,” through September 30, 2010, the board may grant permission to sit for a master examination in one or more applicable discipline to an applicant who has not previously been licensed as a master or journeyman in the applicable discipline and who possesses at least 48 months of work experience equivalent to that of a licensed master in the applicable discipline between September 30, 2004, and September 30, 2010. For purposes of this subrule, an applicant shall demonstrate the requisite work experience by providing a notarized employer verification statement on a form provided by the board, notarized client verification statements on a form provided by the board, or tax documents such as a Schedule C, Form 1099, Form W-2, or other tax forms establishing such requisite work experience. Upon board verification of work experience, the board shall return any submitted tax documents to the applicant via certified mail.

29.8(2) Notwithstanding subrule 29.2(3), through November 15, 2010, an applicant for a master license may be eligible to receive a master license if:

a. The applicant files an application and pays all applicable fees in accordance with rule 641—29.5(105); and

b. The applicant passes the state master licensing examination for the applicable discipline.

This rule is intended to implement 2010 Iowa Acts, House File 2531, section 100.

[ARC 8783B, IAB 6/2/10, effective 5/10/10]

641—29.9(105) Waiver from examination for military service. The written examination requirements and prior experience requirements set forth in Iowa Code sections 105.18(2) “*b*”(1) and 105.18(2) “*c*” shall be waived for a journeyman license or master license if the applicant meets all of the following requirements:

29.9(1) Is an active or retired member of the United States military.

29.9(2) Provides documentation that the applicant was deployed on active duty during any portion of the time period of July 1, 2008, through December 31, 2009.

29.9(3) Provides documentation that shows the applicant has previously passed an examination which the board deems substantially similar to the examination for a journeyman license or a master

license, as applicable, issued by the board, or provides documentation that shows the applicant has previously been licensed by a state or local government jurisdiction in the same trade and trade level.
[ARC 9604B, IAB 7/13/11, effective 6/21/11; ARC 9849B, IAB 11/16/11, effective 12/21/11]

These rules are intended to implement Iowa Code chapter 105 as amended by 2011 Iowa Acts, House File 392.

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[Filed Emergency ARC 9604B, IAB 7/13/11, effective 6/21/11]

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CHAPTER 30
CONTINUING EDUCATION FOR PLUMBING AND
MECHANICAL SYSTEMS PROFESSIONALS

641—30.1(105) Definitions. For the purpose of these rules, the following definitions shall apply:

“Approved program/activity” means a continuing education program/activity meeting the standard set forth in these rules.

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

“Board” means the plumbing and mechanical systems board as established pursuant to Iowa Code section 105.3.

“Continuing education” means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee’s knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

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

“License” means a license to work in a specific discipline covered under Iowa Code chapter 105.

“Licensee” means any person licensed to work in a specific discipline covered under Iowa Code chapter 105.

[ARC 8270B, IAB 11/4/09, effective 10/16/09; ARC 8475B, IAB 1/13/10, effective 2/17/10]

641—30.2(105) Continuing education requirements.

30.2(1) The continuing education compliance period shall begin on the license issue date and end on the license expiration date.

30.2(2) Each continuing education compliance period:

a. All inactive and active master and journey licensees shall be required to complete a minimum of 8 hours of board-approved continuing education, of which 4 hours shall be in the practice discipline in which the licensee holds a license. A minimum of 2 hours of the 8 hours shall be in the content area of the applicable Iowa plumbing or mechanical codes, and 2 hours of the 8 hours shall be in the content area of the Iowa Occupational Safety and Health Act.

b. All inactive and active master and journey licensees holding licenses in multiple mechanical code disciplines (i.e., HVAC, hydronics, or refrigeration) with the same license expiration date shall obtain a minimum of 14 hours of board-approved continuing education, of which 8 hours shall be in any of the practice disciplines in which the licensee holds a license. A minimum of 2 hours of the 14 hours shall be in the content area of the applicable Iowa mechanical code, and 4 hours of the 14 hours shall be in the content area of the Iowa Occupational Safety and Health Act. All inactive and active master and journey licensees holding a plumbing discipline license and at least one mechanical code discipline license (i.e., HVAC, hydronics, or refrigeration) with the same expiration date shall obtain a minimum of 16 hours of board-approved continuing education, of which 8 hours shall be in any of the practice disciplines in which the licensee holds a license. A minimum of 2 hours of the 16 hours shall be in the content area of the Iowa plumbing code, 2 hours of the 16 hours shall be in the content area of the Iowa mechanical code, and 4 hours of the 16 hours shall be in the content area of the Iowa Occupational Safety and Health Act.

c. An individual possessing one special, restricted license issued pursuant to Iowa Code section 105.18(3) shall be required to complete the same number and type of continuing education hours as set forth in paragraph 30.2(2) “a.” For purposes of paragraph 30.2(2) “c,” the prescribed practice discipline for each special, restricted license shall be the discipline under which the special license is a sublicense.

d. An individual possessing two or more special, restricted licenses issued pursuant to Iowa Code section 105.18(3) shall be required to complete the same number and type of continuing education hours as set forth in paragraph 30.2(2) “b.” For purposes of paragraph 30.2(2) “d,” the prescribed practice discipline for each special, restricted license shall be the discipline under which the special license is a sublicense.

30.2(3) Up to 2 hours of board-approved continuing education required by subrule 30.2(2) each continuing education compliance period may be obtained through completion of computer-based continuing education programs/activities approved by the board.

30.2(4) It is the responsibility of each licensee to finance the cost of continuing education.

30.2(5) A licensee who is a presenter of a board-approved continuing education program may receive credit once per continuing education compliance period for the presentation of the program. The licensee may receive the same number of hours granted the attendees.

[**ARC 8270B**, IAB 11/4/09, effective 10/16/09; **ARC 8475B**, IAB 1/13/10, effective 2/17/10; **ARC 9605B**, IAB 7/13/11, effective 6/21/11; **ARC 9850B**, IAB 11/16/11, effective 12/21/11]

641—30.3(105) Continuing education programs/activities.

30.3(1) *Standards for continuing education programs/activities.* A program/activity is appropriate for continuing education credit if the program/activity meets all of the following criteria:

- a. Is board-approved;
- b. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;
- c. Pertains to subject matters that integrally relate to the practice of the discipline;
- d. Is conducted by individuals who have obtained board approval as required under subrule 30.4(1). This criterion shall not be required for computer-based continuing education programs/activities conducted pursuant to subrule 30.2(3);
- e. Fulfills stated program goals, objectives, or both; and
- f. Covers product knowledge, methods, and systems of one or more of the following:
 - (1) The theory and technique for a specific discipline;
 - (2) The current Iowa plumbing code, Iowa mechanical code, or both;
 - (3) The standards comprising the current Iowa Occupational Safety and Health Act.

30.3(2) *Board approval.* Board approval for specific programs/activities under paragraph 30.3(1) “a” shall be valid for three years.

30.3(3) *Procedure and standards for board approval of continuing education programs/activities.*

a. For non-computer-based continuing education programs/activities, an individual or entity seeking board approval shall:

- (1) File an application in the form prescribed by the board without alteration at least 60 days prior to the first scheduled course date;
- (2) Attach a copy of the course or activity outline or syllabus which, at a minimum, specifically identifies the course content and a breakdown of the student contact hours; and
- (3) Attach a schedule of courses, if known, which indicates the course’s or activity’s proposed scheduled locations, dates, and times.

b. For computer-based continuing education programs/activities, an individual or entity seeking board approval shall:

- (1) File an application in the form prescribed by the board without alteration;
- (2) Attach a copy of the course or activity outline or syllabus which, at a minimum, specifically identifies the course content and a breakdown of the student contact hours;
- (3) Attach a schedule of courses, if known, which indicates the course’s or activity’s proposed scheduled locations, dates, and times;
- (4) Provide a brief summary of the training product;
- (5) Provide a copy of the CD-ROM, DVD, visual aids, or other materials included with the course or activity; and
- (6) Provide the names, contact information, and qualifications or résumés of the training designers.

30.3(4) *Board member attendance.* With board approval, board members may attend any board-approved continuing education program/activity for purposes of determining whether the continuing education program/activity complies with these rules. In the event a board member attends a board-approved continuing education program/activity with the purpose of determining whether the

continuing education program/activity complies with these rules, the board member may not receive any continuing education credit for those hours in attendance.

[ARC 8270B, IAB 11/4/09, effective 10/16/09; ARC 8475B, IAB 1/13/10, effective 2/17/10; ARC 9605B, IAB 7/13/11, effective 6/21/11; ARC 9850B, IAB 11/16/11, effective 12/21/11]

641—30.4(105) Course instructor(s).

30.4(1) Procedure and standards for board approval of instructors. An individual seeking board approval to instruct continuing education programs/activities shall:

a. File an application in the form prescribed by the board without alteration;

b. Attach copies of documents, licensures, degrees, and other materials demonstrating compliance with the requirements for the type of continuing education program/activity as set forth below.

(1) If seeking approval to instruct in the content area of the Iowa Occupational Safety and Health Act, an individual must either possess and maintain a current Occupational Safety and Health Act 500, 501, 502, or 503 card or completion certificate, or both, or possess a current train-the-trainer or instructor card or other certification or safety-related degree or diploma issued by the American Heart Association, American Red Cross, National Safety Council, Board of Certified Safety Professionals, or board-approved equivalent.

(2) If seeking approval to instruct in the content area of the Iowa plumbing code or Iowa mechanical code, or both, an individual must:

1. Possess a current license issued by the board at the journey or master level in the applicable discipline under that code,

2. Possess a current license as a professional engineer under Iowa Code chapter 542B,

3. Present evidence of having taught at least eight contact hours in the applicable code within the last three years,

4. Possess a current inspector or plans examiner certificate issued by a code body in the discipline,

or

5. Demonstrate equivalent specialized education or training.

(3) If seeking approval to instruct in the content area of a practice discipline, an individual must:

1. Possess a current license issued by the board at the journey or master level in the applicable discipline,

2. Possess a current license as a professional engineer under Iowa Code chapter 542B,

3. Provide evidence of employment as a product representative with manufacturer training,

4. Present evidence of having taught at least eight contact hours in the applicable discipline within the last year, or

5. Demonstrate equivalent specialized education or training.

30.4(2) Board approval. Board approval for an instructor under subrule 30.4(1) shall be valid for three years.

[ARC 8270B, IAB 11/4/09, effective 10/16/09; ARC 8475B, IAB 1/13/10, effective 2/17/10; ARC 9605B, IAB 7/13/11, effective 6/21/11; ARC 9850B, IAB 11/16/11, effective 12/21/11]

641—30.5(105) Audit of continuing education requirements. The board may conduct an audit of a licensee's license renewal application to review compliance with continuing education requirements.

30.5(1) Upon board request, the licensee must submit to the board an individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor or course instructor. These documents must contain the course title, date(s), contact hours, sponsor's name, and licensee's name. In some instances, licensees will be requested to provide to the board additional information including, but not limited to, program content, objectives, presenters, location, and schedule. An inclusive brochure may meet this requirement.

30.5(2) Upon board request, a licensee must submit all information set forth in subrule 30.5(1) within 30 calendar days following the board's request. The board may grant extensions on an individual basis.

30.5(3) If the submitted materials are incomplete or unsatisfactory and the board determines that the deficiency was the result of good-faith conduct on the part of the licensee, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit. A licensee

must complete the continuing education hours and submit documentation establishing completion of the required make-up continuing education hours to the board within 120 calendar days from the date of the board's finding of good-faith conduct.

30.5(4) A licensee's failure to provide the board with an accurate mailing address shall not be an excuse for noncompliance with any requirement set forth in this rule.

[ARC 8270B, IAB 11/4/09, effective 10/16/09; ARC 8475B, IAB 1/13/10, effective 2/17/10]

641—30.6(105) Continuing education exemptions.

30.6(1) Automatic exemptions. A licensee shall be exempt from the continuing education requirement during the continuing education compliance period when that person:

- a. Served honorably on active duty in the military service; or
- b. Resided in another state or district having continuing education requirements for the discipline and met all requirements of that state or district for practice therein; or
- c. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
- d. Was absent from the state but engaged in active practice under circumstances which are approved by the board; or
- e. Obtained a journeyman license by examination provided that the licensee maintains the same renewal date as the licensee's apprentice license. This automatic exemption shall only apply to the licensee's first renewal of the journeyman license.

30.6(2) Permissive exemptions. The board may, in cases involving exceptional hardship or extenuating circumstances, grant an exemption from some or all of the continuing education requirements.

- a. A licensee seeking a permissive exemption shall apply to the board, in such form as the board may prescribe.
- b. A licensee seeking a permissive exemption shall be required to provide all such documentary evidence as the board may request to establish the exceptional hardship or extenuating circumstances.
- c. In the event of a claimed physical or mental disability or illness, the board may request information from a licensed health care professional who can attest to the existence of any such disability or illness.
- d. A licensee who applies for a permissive exemption shall be notified in writing of the board's decision.
- e. In granting an exemption, the board may impose any such additional conditions on the exemption including, but not limited to, the requirement that the licensee make up a portion of the continuing education requirements.
- f. In lieu of granting a full or partial exemption, the board may grant the licensee an extension of time in which to complete the continuing education requirements.
- g. The granting of an exemption shall not prohibit a licensee from seeking, or the board from granting, an exemption in a subsequent biennial continuing education compliance period(s).
- h. Permissive exemptions shall only be granted in the most exceptional and extraordinary of circumstances.

[ARC 8270B, IAB 11/4/09, effective 10/16/09; ARC 8475B, IAB 1/13/10, effective 2/17/10; ARC 9605B, IAB 7/13/11, effective 6/21/11; ARC 9850B, IAB 11/16/11, effective 12/21/11]

641—30.7(105) Continuing education extensions. The board may, in individual cases involving hardship or extenuating circumstances, grant an extension of time within which to fulfill the minimum continuing education requirements.

30.7(1) Hardship or extenuating circumstances include documented circumstances beyond the control of the licensee which prevent attendance at required activities.

30.7(2) All requests for extension must be made prior to the license expiration date.

[ARC 8270B, IAB 11/4/09, effective 10/16/09; ARC 8475B, IAB 1/13/10, effective 2/17/10]

641—30.8(105) Continuing education reporting requirements.

30.8(1) *Non-computer-based continuing education programs/activities.* For non-computer-based continuing education programs/activities, at the conclusion of each continuing education course, the course instructor shall:

a. Inform each attending licensee that a survey of the course and instructor may be completed and submitted by the licensee to the board through either a board-approved written evaluation form or an Internet-based form.

b. Provide a certificate of completion to each licensee who attends the course. The certificate of completion shall include the following information:

- (1) The licensee's full name and board-issued license number;
- (2) The course name or title;
- (3) The board-approved course identification number;
- (4) The date of the course;
- (5) The number of program contact hours;
- (6) The instructor's full name and board-approved identification number; and
- (7) The instructor's signature.

c. Submit to the board a typed or electronic course completion roster within 30 days following the completion of the course. The course completion roster shall contain the following information:

- (1) The full name and board-issued license number of each attending licensee;
- (2) The course name or title;
- (3) The board-approved course identification number;
- (4) The date of the course;
- (5) The location of the course;
- (6) The number of program contact hours;
- (7) The instructor's full name and board-approved identification number; and
- (8) The instructor's signature.

30.8(2) *Computer-based continuing education programs/activities.* For computer-based continuing education programs/activities under subrule 30.2(3), at the conclusion of each computer-based continuing education course, the person authorized to monitor and verify attendance/course completion shall:

a. Provide a certificate of completion to each licensee who completes the course. The certificate of completion shall include the following information:

- (1) The licensee's full name and board-issued license number;
- (2) The course name or title;
- (3) The board-approved course identification number;
- (4) The date the course was completed; and
- (5) The number of program contact hours.

b. Submit to the board a typed or electronic course completion roster within 30 days following a licensee's completion of a computer-based continuing education course. The course completion roster shall contain the following information:

- (1) The full name and board-issued license number of each attending licensee;
- (2) The course name or title;
- (3) The board-approved course identification number;
- (4) The date of the course;
- (5) The location of the course; and
- (6) The number of program contact hours.

[ARC 8270B, IAB 11/4/09, effective 10/16/09; ARC 8475B, IAB 1/13/10, effective 2/17/10]

These rules are intended to implement Iowa Code chapters 105 and 272C.

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[Filed ARC 9850B (Notice ARC 9613B, IAB 7/13/11), IAB 11/16/11, effective 12/21/11]

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.

g. 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.

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.
 - c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

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.

[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]

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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CHAPTER 327

PRACTICE OF PHYSICIAN ASSISTANTS

[Prior to 8/7/02, see 645—325.6(148C) to 645—325.9(148C) and 645—325.18(148C)]

645—327.1(148C) Duties.

327.1(1) The medical services to be provided by the physician assistant are those delegated by a supervising physician. The ultimate role of the physician assistant cannot be rigidly defined because of the variations in practice requirements due to geographic, economic, and sociologic factors. The high degree of responsibility a physician assistant may assume requires that, at the conclusion of the formal education, the physician assistant possess the knowledge, skills and abilities necessary to provide those services appropriate to the practice setting. The physician assistant's services may be utilized in any clinical settings including, but not limited to, the office, the ambulatory clinic, the hospital, the patient's home, extended care facilities and nursing homes. Diagnostic and therapeutic medical tasks for which the supervising physician has sufficient training or experience may be delegated to the physician assistant after a supervising physician determines the physician assistant's proficiency and competence. The medical services to be provided by the physician assistant include, but are not limited to, the following:

- a.* The initial approach to a patient of any age group in any setting to elicit a medical history and perform a physical examination.
- b.* Assessment, diagnosis and treatment of medical or surgical problems and recording the findings.
- c.* Order, interpret, or perform laboratory tests, X-rays or other medical procedures or studies.
- d.* Performance of therapeutic procedures such as injections, immunizations, suturing and care of wounds, removal of foreign bodies, ear and eye irrigation and other clinical procedures.
- e.* Performance of office surgical procedures including, but not limited to, skin biopsy, mole or wart removal, toenail removal, removal of a foreign body, arthrocentesis, incision and drainage of abscesses.
- f.* Assisting in surgery.
- g.* Prenatal and postnatal care and assisting a physician in obstetrical care.
- h.* Care of orthopedic problems.
- i.* Performing and screening the results of special medical examinations including, but not limited to, electrocardiogram or Holter monitoring, radiography, audiometric and vision screening, tonometry, and pulmonary function screening tests.
- j.* Instruction and counseling of patients regarding physical and mental health on matters such as diets, disease, therapy, and normal growth and development.
- k.* Function in the hospital setting by performing medical histories and physical examinations, making patient rounds, recording patient progress notes and other appropriate medical records, assisting in surgery, performing or assisting with medical procedures, providing emergency medical services and issuing, transmitting and executing patient care orders as delegated by the supervising physician.
- l.* Providing services to patients requiring continuing care (i.e., home, nursing home, extended care facilities).
- m.* Referring patients to specialty or subspecialty physicians, medical facilities or social agencies as indicated by the patients' problems.
- n.* Immediate evaluation, treatment and institution of procedures essential to providing an appropriate response to emergency medical problems.
- o.* Order drugs and supplies in the office, and assist in keeping records and in the upkeep of equipment.
- p.* Admit patients to a hospital or health care facility.
- q.* Order diets, physical therapy, inhalation therapy, or other rehabilitative services as indicated by the patient's problems.
- r.* Administer any drug (a single dose).
- s.* Prescribe drugs and medical devices under the following conditions:

(1) The physician assistant shall have passed the national certifying examination conducted by the National Commission on the Certification of Physician Assistants or its successor examination approved by the board. Physician assistants with a temporary license may order drugs and medical devices only with the prior approval and direction of a supervising physician. Prior approval may include discussion of the specific medical problems with a supervising physician prior to the patient's being seen by the physician assistant.

(2) The physician assistant may not prescribe Schedule II controlled substances which are listed as depressants in Iowa Code chapter 124. The physician assistant may order Schedule II controlled substances which are listed as depressants in Iowa Code chapter 124 only with the prior approval and direction of a physician. Prior approval may include discussion of the specific medical problems with a supervising physician prior to the patient's being seen by the physician assistant.

(3) The physician assistant shall inform the board of any limitation on the prescriptive authority of the physician assistant in addition to the limitations set out in 327.1(1) "s"(2).

(4) A physician assistant shall not prescribe substances that the supervising physician does not have the authority to prescribe except as allowed in 327.1(1) "n."

(5) The physician assistant may prescribe, supply and administer drugs and medical devices in all settings including, but not limited to, hospitals, health care facilities, health care institutions, clinics, offices, health maintenance organizations, and outpatient and emergency care settings except as limited by 327.1(1) "s"(2).

(6) A physician assistant who is an authorized prescriber may request, receive, and supply sample drugs and medical devices except as limited by 327.1(1) "s"(2).

(7) The board of physician assistants shall be the only board to regulate the practice of physician assistants relating to prescribing and supplying prescription drugs, controlled substances and medical devices.

t. Supply properly packaged and labeled prescription drugs, controlled substances or medical devices when pharmacist services are not reasonably available or when it is in the best interests of the patient as delegated by a supervising physician.

(1) When the physician assistant is the prescriber of the medications under 327.1(1) "s," these medications shall be supplied for the purpose of accommodating the patient and shall not be sold for more than the cost of the drug and reasonable overhead costs as they relate to supplying prescription drugs to the patient and not at a profit to the physician or physician assistant.

(2) When a physician assistant supplies medication on the direct order of a physician, subparagraph (1) does not apply.

(3) A nurse or staff assistant may assist the physician assistant in supplying medications when prescriptive drug supplying authority is delegated by a supervising physician to the physician assistant under 327.1(1) "s."

u. When a physician assistant supplies medications as delegated by a supervising physician in a remote site, the physician assistant shall secure the regular advice and consultation of a pharmacist regarding the distribution, storage and appropriate use of prescription drugs, controlled substances, and medical devices.

v. May, at the request of the peace officer, withdraw a specimen of blood from a patient for the purpose of determining the alcohol concentration or the presence of drugs.

w. Direct medical personnel, health professionals and others involved in caring for patients in the execution of patient care.

x. May authenticate medical forms by signing the form and including a supervising physician's name.

y. Perform other duties appropriate to a physician's practice.

z. Health care providers shall consider the instructions of the physician assistant to be instructions of a supervising physician if the instructions concern duties delegated to the physician assistant by the supervising physician.

327.1(2) Emergency medicine duties.

- a. A physician assistant may be a member of the staff of an ambulance or rescue squad pursuant to Iowa Code chapter 147A.
- b. A physician assistant shall document skills, training and education equivalent to that required of a certified advanced emergency medical technician or a paramedic.
- c. A physician assistant must apply for approval of advanced care training equivalency on forms supplied by the board of physician assistants.
- d. Exceptions to this subrule include:
 - (1) A physician assistant who accompanies and is responsible for a transfer patient;
 - (2) A physician assistant who serves on a basic ambulance or rescue squad service; and
 - (3) A physician assistant who renders aid within the physician assistant's skills during an emergency.

645—327.2(148C) Prohibition. No physician assistant shall be permitted to prescribe lenses, prisms or contact lenses for the aid, relief or correction of human vision. No physician assistant shall be permitted to measure the visual power and visual efficiency of the human eye, as distinguished from routine visual screening, except in the personal presence of a supervising physician at the place where these services are rendered.

645—327.3(148C) Free medical clinic. Rescinded IAB 9/15/04, effective 8/25/04.

645—327.4(148C) Remote medical site.

327.4(1) A physician assistant may provide medical services in a remote medical site if one of the following three conditions is met:

- a. The physician assistant has a permanent license and at least one year of practice as a physician assistant; or
- b. The physician assistant with less than one year of practice has a permanent license and meets the following criteria:
 - (1) The physician assistant has practiced as a physician assistant for at least six months; and
 - (2) The physician assistant and supervising physician have worked together at the same location for a period of at least three months; and
 - (3) The supervising physician reviews patient care provided by the physician assistant at least weekly; and
 - (4) The supervising physician signs all patient charts unless the medical record documents that direct consultation with the supervising physician occurred; or
- c. The physician assistant and supervising physician provide a written statement sent directly to the board that the physician assistant is qualified to provide the needed medical services and that the medical care will be unavailable at the remote site unless the physician assistant is allowed to practice there. In addition, for three months the supervising physician must review patient care provided by the physician assistant at least weekly and must sign all patient charts unless the medical record documents that direct consultation with the supervising physician occurred.

327.4(2) A supervising physician must visit a remote site to provide additional medical direction, medical services and consultation at least every two weeks or less frequently as specified in special circumstances. When visits are less frequent than every two weeks in unusual or emergency circumstances, the board shall be notified in writing of these circumstances.

645—327.5(147) Identification as a physician assistant. The physician assistant shall be identified as a physician assistant to patients and to the public.

645—327.6(147) Prescription requirements.

327.6(1) Each written outpatient prescription drug order issued by a physician assistant shall contain the following:

- a. The date of issuance.
- b. The name and address of the patient for whom the drug is prescribed.

c. The name, strength, and quantity of the drug, medicine, or device prescribed and directions for use.

d. When delegated prescribing occurs, the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each individual prescription so that the individual who dispenses or administers the prescription knows under whose delegated authority the physician assistant is prescribing. Notification may include, but is not limited to, including the physician's name on the prescription, including the physician's name in the memo section of an electronic prescription, or providing the physician's name by telephone or other electronic means. If, in an electronic prescription record, the record does not include a dedicated field for the name of the supervising physician, a memo or comment field may be used to record the supervising physician's name by entering the code "SP01" and then the supervising physician's name prior to any other comment in the memo or comment field.

e. The physician assistant's name and the practice address.

f. The signature of the physician assistant followed by the initials "PA."

g. The Drug Enforcement Administration (DEA) number of the physician assistant if the prescription is for a controlled substance.

All other prescriptions shall comply with paragraph "d."

327.6(2) Each oral prescription drug order issued by a physician assistant shall include the same information required for a written prescription, except for the written signature of the physician assistant and the address of the practitioners.

[ARC 9217B, IAB 11/3/10, effective 12/8/10; ARC 9844B, IAB 11/16/11, effective 12/21/11]

645—327.7(147) Supplying—requirements for containers, labeling, and records.

327.7(1) Containers. A prescription drug shall be supplied in a container which meets the requirements of the Poison Prevention Packaging Act of 1970, 15 U.S.C. §§1471-1476 (1976), which relate to childproof closure, unless otherwise requested by the patient. The containers must also meet the requirements of Section 502G of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§301 et seq. (1976), which pertain to light resistance and moisture resistance needs of the drug supplied.

327.7(2) Labeling. A label bearing the following information shall be affixed to a container in which a prescription drug is supplied:

a. The name and practice address of the supervising physician and physician assistant.

b. The name of the patient.

c. The date supplied.

d. The directions for administering the prescription drug and any cautionary statement deemed appropriate by the physician assistant.

e. The name, strength and quantity of the prescription drug in the container.

f. When supplying Schedule II, III, or IV controlled substances, the federal transfer warning statement must appear on the label as follows: "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed."

327.7(3) Samples. Prescription sample drugs will be provided without additional charge to the patient. Prescription sample drugs supplied in the original container or package shall be deemed to conform to labeling and packaging requirements.

327.7(4) Records. A record of prescription drugs supplied by the physician assistant to a patient shall be kept which contains the label information required by paragraphs 327.7(2) "b" to "e." Noting such information on the patient's chart or record is sufficient.

These rules are intended to implement Iowa Code section 147.107 and chapters 148C and 272C.

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[Prior to 7/13/88, see Secretary of State[750] Ch 2]

721—40.1(490,499,504A) Filing of documents. Documents pertaining to profit corporations, nonprofit corporations, and cooperative associations shall be delivered for filing to the office of Secretary of State, Lucas State Office Building, Des Moines, Iowa 50319.

40.1(1) A copy of a signature, however made, is acceptable with regard to documents delivered to the secretary of state for filing pursuant to Iowa Code chapter 490.

40.1(2) A document delivered to the secretary of state for filing pursuant to the Iowa business corporation Act, Iowa Code chapter 490, may be delivered by telecopier to (515)242-5953.

40.1(3) A document delivered by telecopier may be delivered at any time of day. The date and time of receipt printed on the document by the telecopier constitutes the date and time endorsement required by Iowa Code section 490.125(2).

40.1(4) A document delivered by telecopier shall be printed on paper measuring 8½" by 11", unless a copy of a larger document, reduced to 8½" by 11" paper, is acceptable to the filing party. The document received by the secretary of state via telecopier shall constitute the copy that is filed and returned to the corporation pursuant to Iowa Code section 490.125(2).

40.1(5) A document delivered by telecopier shall be accompanied by a cover sheet that provides the name, address, and telephone number of the filing party, and instructions as to the manner by which the filing fee will be paid. The filing fee may be billed to an account maintained by the filing party pursuant to rule 721—2.3(17A). The filing fee may be paid by any other means authorized by the secretary of state.

40.1(6) If a telecopier is used to deliver a document that is subject to the multiple copy requirement of Iowa Code section 490.130, the additional copy or copies shall be delivered by telecopier contemporaneously with the copy of the document to be filed.

40.1(7) A document delivered by telecopier for filing may be rejected if the print quality of the document is deemed by agency personnel to be unacceptable for microfilming purposes. The secretary of state will notify the filing party by telephone or regular mail of the rejection of a document pursuant to this subrule. The secretary of state will accept for filing the original copy of the document, effective on the date of the transmission by telecopier, if the original document is received in the office of the secretary of state within ten days of date of the notification of the rejection.

This rule is intended to implement Iowa Code chapter 490.

721—40.2(490,499,504A) Reinstatement of corporations.

40.2(1) A corporation subject to Iowa Code chapter 490 that was administratively dissolved after July 1, 1992, and prior to July 1, 1993, may reinstate pursuant to section 490.1422 prior to the expiration of two years from the date of the administrative dissolution, or prior to July 1, 1995, whichever occurs first.

40.2(2) A cooperative association subject to Iowa Code chapter 499 that forfeited its corporate rights under section 499.51 prior to July 1, 1993, may reinstate pursuant to section 499.78 prior to July 1, 1995.

40.2(3) A nonprofit corporation subject to Iowa Code chapter 504A, whose certificate of incorporation was canceled pursuant to section 504A.87 prior to July 1, 1993, and whose period for reinstatement had not expired as of July 1, 1993, may apply to the secretary of state for reinstatement pursuant to section 504A.87A prior to the expiration of five years from the date of the cancellation of the certificate of incorporation, or prior to July 1, 1995, whichever occurs first.

This rule is intended to implement Iowa Code sections 490.1422, 504A.87A, and 499.78.

721—40.3(487,490,504A) Names distinguishable upon corporate records.

40.3(1) Except as provided in these rules, a name is considered distinguishable upon the records of the secretary of state if it contains one or more different letters or numerals, or if it contains a different

sequence of letters or numerals. A single space used to divide a sequence of letters or numerals into separate words is considered to be a letter for the purpose of this subrule. Differences between singular and plural forms of words are distinguishable. Differences between numerals, Roman numerals, and words representing numerals are distinguishable. The following characters are considered as letters for the purpose of this subrule: \$ (dollar sign); + (plus sign); % (percent sign); ¢ (cent sign).

40.3(2) The following words and abbreviations, when positioned as the last word or abbreviation in the corporate name, are not considered in determining whether a name is distinguishable upon the records of the secretary of state:

1. Corporation
2. Company
3. Incorporated
4. Limited
5. Corp.
6. Co.
7. Inc.
8. Ltd.

40.3(3) The presence or absence of the words “limited partnership,” or the abbreviation “L.P.” in any limited partnership name, when positioned at the end of the name, is not considered in determining whether a name is distinguishable upon the records of the secretary of state.

40.3(4) The presence or absence of the words “professional corporation” or the abbreviation “P.C.” in the name of any professional corporation, when positioned at the end of the name, is not considered in determining whether a name is distinguishable upon the records of the secretary of state.

40.3(5) The presence or absence of the words “registered limited liability partnership,” or the abbreviation “L.L.P.” in any limited liability partnership name, when positioned at the end of the name, is not considered in determining whether a name is distinguishable upon the records of the secretary of state.

40.3(6) The presence or absence of the words “limited liability company,” or the abbreviation “L.L.C.” or “L.C.” in any limited liability company name, when positioned at the end of the name, is not considered in determining whether a name is distinguishable upon the records of the secretary of state.

40.3(7) to 40.3(10) Reserved.

40.3(11) Differences in punctuation and special characters are not considered in determining whether a name is distinguishable upon the records of the secretary of state. Punctuation and special characters include, but are not limited to:

' (apostrophe)	[(left bracket)
] (right bracket)	: (colon)
, (comma)	— (dash)
- (hyphen)	! (exclamation point)
((left parenthesis)) (right parenthesis)
. (period)	? (question mark)
' (single quote mark)	” (double quote mark)
; (semicolon)	/ (slash)
* (asterisk)	@ (at sign)
\ (back slash)	{ (left brace)
} (right brace)	^ (caret)
= (equal sign)	> (greater than sign)
< (less than sign)	# (number sign)
~ (tilde)	_ (underline)

40.3(12) Reserved.

40.3(13) Differences in capitalization are not considered in determining whether a name is distinguishable upon the records of the secretary of state.

40.3(14) Differences between an ampersand (&) and the word “and” are not considered in determining whether a name is distinguishable upon the records of the secretary of state.

40.3(15) Reserved.

40.3(16) In determining whether a name is distinguishable upon the records of the secretary of state, names found in the following records will not be considered:

1. Fictitious names.
2. Assumed names of nonprofit corporations.
3. Names of corporations (profit or nonprofit) whose certificates of incorporation have been canceled.
4. Names of corporations (profit or nonprofit) whose certificates of authority have been revoked.
5. Expired or terminated assumed names.
6. Expired name reservations.
7. Expired name registrations.

This rule is intended to implement Iowa Code sections 487.102(4), 490.401, 504A.6, and 504A.67.

721—40.4(490,491,496C,497,498,499,504A) Payment and refund of fees.

40.4(1) The office of secretary of state requires a payment of all fees in full at the time of filing of any corporate document or request for copies.

40.4(2) Filing under any of the corporation or cooperative chapters may be effected only upon the receipt of the correct filing fee. Failure to include the filing fee or partial payment of the filing fee will result in the return of the filing to the sender with instructions to include the correct filing fee.

40.4(3) In the event that a filing fee overpayment is made, the amount in excess of the correct filing fee shall be returned to the filing party. No adjustment is required if the amount of overpayment is one dollar or less.

40.4(4) This subrule implements the pilot project authorized by 2000 Iowa Acts, House File 2545, section 32, for fees required by Iowa Code section 490.122, subsection 1, paragraphs “a” and “s.”

a. The secretary of state may refund payment of the corporate filing fees required pursuant to the provisions of Iowa Code section 490.122, subsection 1, paragraphs “a” and “s,” if, within five business days from the time the corporate filing is received and date stamped, the entity has not been entered on the records of the secretary of state.

b. To receive a refund under this subrule, the corporate entity must make a written request with the business services division of the secretary of state’s office. The written request must specify the reason(s) for the refund and provide evidence of entitlement to the refund.

c. The filing fee shall not be refunded if the corporate filing fails to satisfy all of the filing requirements of Iowa Code chapter 490.

d. The decision of the secretary of state not to issue a refund under this subrule is final and not subject to review pursuant to the provisions of the Iowa administrative procedure Act.

40.4(5) This subrule implements the pilot project authorized by 2000 Iowa Acts, House File 2545, section 32, for fees required by Iowa Code section 504A.85, subsections 1 and 9.

a. The secretary of state may refund payment of the corporate filing fees required pursuant to the provisions of Iowa Code section 504A.85, subsections 1 and 9, if, within five business days from the time the corporate filing is received and date stamped, the entity has not been entered on the records of the secretary of state.

b. To receive a refund under this subrule, the corporate entity must make a written request with the business services division of the secretary of state’s office. The written request must specify the reason(s) for the refund and provide evidence of entitlement to the refund.

c. The filing fee shall not be refunded if the corporate filing fails to satisfy all of the filing requirements of Iowa Code chapter 504A.

d. The decision of the secretary of state not to issue a refund under this subrule is final and not subject to review pursuant to the provisions of the Iowa administrative procedure Act.

721—40.5(491,496A,499,504A,548) Document to county recorder.

40.5(1) Any corporate document that is required by law to be filed in the office of the county recorder will be forwarded directly to the office of the county recorder in the county where the corporation's registered office is located.

40.5(2) Reserved.

721—40.6(548) Registration and protection of marks.

40.6(1) Classification. The following general classes of goods and services are established, but do not limit or extend the applicant's or registrant's rights, and a single application for registration of a mark may include any or all goods upon which, or services with which, the mark is actually being used comprised in a single class, but in no event shall a single application include goods or services upon which the mark is being used which fall within different classes of goods or services.

The said classes are as follows:

Class	Title	GOODS
1	Raw or partly prepared materials	
2	Receptacles	
3	Baggage, animal equipments, portfolio and pocketbooks	
4	Abrasives and polishing materials	
5	Adhesives	
6	Chemicals and chemical compositions	
7	Cordage	
8	Smokers' articles, not including tobacco products	
9	Explosives, firearms, equipments and projectiles	
10	Fertilizers	
11	Inks and inking materials	
12	Construction materials	
13	Hardware and plumbing and steam-fitting supplies	
14	Metals and metal castings and forgings	
15	Oils and greases	
16	Paints and painters' materials	
17	Tobacco products	
18	Medicines and pharmaceutical preparations	
19	Vehicles	
20	Linoleum and oiled cloth	
21	Electrical apparatus, machines and supplies	
22	Games, toys and sporting goods	
23	Cutlery, machinery and tools, and parts thereof	
24	Laundry appliances and machines	
25	Locks and safes	
26	Measuring and scientific appliances	
27	Horological instruments	
28	Jewelry and precious-metal ware	
29	Brooms, brushes and dusters	
30	Crockery, earthenware and porcelain	
31	Filters and refrigerators	
32	Furniture and upholstery	
33	Glassware	

34	Heating, lighting and ventilating apparatus	
35	Belting, hose, machinery packing and nonmetallic tires	
36	Musical instruments and supplies	
37	Paper and stationery	
38	Prints and publications	
39	Clothing	
40	Fancy goods, furnishings and notions	
41	Canes, parasols and umbrellas	
42	Knitted, netted and textile fabrics, and substitutes thereof	
43	Thread and yarn	
44	Dental, medical and surgical appliances	
45	Soft drinks and carbonated waters	
46	Foods and ingredients of foods	
47	Wines	
48	Malt beverages and liquors	
49	Distilled alcoholic liquors	
50	Merchandise not otherwise classified	
51	Cosmetics and toilet preparations	
52	Detergents and soaps	
Class	Title	SERVICES
100	Miscellaneous	
101	Advertising and business	
102	Insurance and financial	
103	Construction and repair	
104	Communication	
105	Transportation and storage	
106	Material treatment	
107	Education and entertainment	

40.6(2) Assistance in applications. The secretary of state cannot give legal advice as to the nature and extent of the protection afforded by law nor advise as to the registrability of a specific mark except as questions may arise in connection with pending applications.

40.6(3) Incomplete or defective applications. An application will not be filed unless the application and accompanying facsimiles or specimens are in proper form, comply with the statutory requirements and are accompanied by the statutory fee. Specimens which are metal need not be submitted, a facsimile being preferable in order to avoid filing problems. Documents not filed will be returned with a statement of the reasons therefor.

40.6(4) Registration dates. The registration date is the date on which the mark is actually posted in the registration indices of the office of the secretary of state, after the application has been examined and found acceptable.

40.6(5) Form of application. The application shall be on a current form supplied by the secretary of state, be completed in the English language and plainly written or typed. If the mark or any part thereof is not in the English language, it must be accompanied by a sworn translation.

40.6(6) Withdrawal of application. Prior to actual registration of the mark, the applicant, by written request, may withdraw the application.

40.6(7) Plurality of goods in single application. A single application may recite a plurality of goods, or a plurality of services, comprised in a single class, provided the particular identification of each of the

goods or services be stated and the mark is used or has been actually used on or in connection with all of the goods or in connection with all of the services specified.

40.6(8) *Single class in one application.* A single application to register a mark for both goods and services or for goods or services in different classes will be rejected. Applications must be restricted to goods or services comprised in a single class.

40.6(9) *Conflicts.* Whenever application is made for registration of a mark or trade name which so resembles a mark registered in this state or a mark previously used in this state by another and not abandoned, as to be likely, when applied to the goods or services of the applicant, to cause confusion or mistake or to deceive, a conflict shall be declared to exist and registration denied.

40.6(10) *Conflicts between applications.* Conflicts between pending applications will be resolved on the basis of the claimed date of first use. The secretary of state may require affidavits and other proof of first use.

40.6(11) *Record change on automatic transfer.* In the event of mergers or consolidations of corporations, a certified copy of such documents may be accepted to transfer ownership of marks.

If the name of the owner of record of a mark is changed, and request for a change of the records is made, then written proof of such change can be made by sworn affidavit showing the manner or mode by which the change of ownership was made.

40.6(12) *Change of address.* If the registered owner of a mark changes the address set forth on the registration, then written notice of such change of address must be given to the secretary of state. Such notice must clearly identify the mark or marks involved and must request that the change of address be noted on the records of the registration on file.

721—40.7(80GA,SF2274) Revised nonprofit corporation Act fees. The following are the fees for the revised nonprofit corporation Act, 2004 Iowa Acts, Senate File 2274.

40.7(1) The secretary shall collect the following fee when the documents described below are delivered to the secretary's office for filing.

Articles of incorporation	\$20
Application for use of indistinguishable name	\$5
Application for reserved name	\$10
Notice of transfer of reserved name	\$10
Application for registered name	\$2 per month or part thereof
Application for renewal of registered name	\$20
Corporation's statement of change of registered agent or registered office or both	No Fee
Agent's statement of change of registered office for each affected corporation not to exceed a total of	No Fee
Agent's statement of resignation	No Fee
Amendment of articles of incorporation	\$10
Restatement of articles of incorporation with amendments	\$20
Articles of merger	\$20
Articles of dissolution	\$5
Articles of revocation of dissolution	\$5
Certificate of administrative dissolution	No Fee
Application for reinstatement following administrative dissolution	\$5
Certificate of reinstatement	No Fee

Certificate of judicial dissolution	No Fee
Application for certificate of authority	\$25
Application for amended certificate of authority	\$25
Application for certificate of withdrawal	\$5
Certificate of revocation of authority to transact business	No Fee
Biennial report	No Fee
Articles of correction	\$5
Application for certificate of existence or authorization	\$5
Any other document required or permitted by the Act	\$5

40.7(2) The secretary of state shall collect a fee of \$5 each time process is served on the secretary under this chapter.

40.7(3) The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

- a. \$1 per page for copying.
- b. \$5 per page for the certificate.

721—40.8(489,490) Biennial reports. The secretary of state shall collect the following fees at the time the documents described in this rule are delivered to the secretary for filing.

40.8(1) A limited liability company or a foreign limited liability company authorized to transact business in this state shall deliver to the secretary of state for filing a biennial report that meets the requirements of Iowa Code section 489.209.

a. The fee for filing and indexing a biennial report filed on paper or in a paper-based format is \$45. This fee may be provided in the form of cash, personal check, cashier's check, or money order or by secretary of state charge account.

b. The fee for an electronic filing through the secretary of state Internet Web site is \$30. This fee must be paid by check, credit card, or secretary of state charge account.

40.8(2) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the secretary of state for filing a biennial report that meets the requirements of Iowa Code section 490.1622.

a. The fee for filing and indexing a biennial report filed on paper or in a paper-based format is \$45. This fee may be provided in the form of cash, personal check, cashier's check, or money order or by a secretary of state charge account.

b. The fee for an electronic filing through the secretary of state Internet Web site is \$30. This fee must be paid by check, credit card, or secretary of state charge account.

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These rules are intended to implement Iowa Code chapters 490, 491, 496A, 499, 504A and 548.

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