

Senate File 2392 - Introduced

SENATE FILE 2392
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 3142)

A BILL FOR

1 An Act relating to the operation of state government, including
2 the review of state boards, the regulation of professions
3 and occupations, and investigations conducted by state
4 boards, and including effective date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

REGULATION OF PROFESSIONS

Section 1. NEW SECTION. **272C.12 Definitions.**

For the purposes of this subchapter:

1. "*Health profession board*" means an entity regulating, licensing, or certifying a profession regulated pursuant to Title IV, subtitle 3.

2. "*Nonhealth profession*" means a profession regulated by this state other than provided in Title IV, subtitle 3.

3. "*Regulated health profession*" means a profession regulated pursuant to Title IV, subtitle 3.

4. "*Unregulated health profession*" means a profession pursuant to Title IV, subtitle 3, that is not currently regulated by any entity of this state.

5. "*Unregulated nonhealth profession*" means a profession that is not currently regulated by any entity of this state that is not an unregulated health profession.

Sec. 2. NEW SECTION. **272C.13 Regulation of unregulated health professions.**

1. An unregulated health profession shall not be subject to regulation by any entity of this state for the purpose of prohibiting competition but only for the exclusive purpose of protecting the public interest. All proposed legislation to regulate an unregulated health profession shall be reviewed by the general assembly to determine that all of the following conditions are met:

a. There is credible evidence that the unregulated practice of the unregulated health profession will clearly harm or endanger the public health, safety, or welfare and the potential for harm is easily recognizable and not remote.

b. The public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional ability.

c. The public cannot be effectively protected by other means in a more cost-efficient manner.

1 2. Prior to considering proposed legislation to regulate an
2 unregulated health profession for passage to the floor of the
3 senate or the house of representatives, a legislative committee
4 to which proposed legislation to regulate an unregulated
5 health profession has been referred shall consider whether the
6 conditions in subsection 1 have been met. If the committee
7 finds that the conditions in subsection 1 have been met, the
8 committee shall consider whether the legislation is the least
9 restrictive method of regulation to address the specific harm
10 or danger identified in this subsection.

11 *a.* If existing common law and statutory civil actions and
12 criminal prohibitions are not sufficient to eradicate existing
13 harm, the legislation shall provide for stricter civil actions
14 and criminal prohibitions.

15 *b.* If a service is being performed for individuals that
16 involves a hazard to the public health, safety, or welfare, the
17 legislation shall impose inspection requirements and enable an
18 appropriate state entity to respond to a violation by seeking
19 injunctive relief in court.

20 *c.* If the threat to the public health, safety, or welfare
21 is relatively small as a result of the operation of the
22 unregulated health profession, the legislation shall implement
23 a system of registration.

24 *d.* If a consumer may have a substantial basis for relying
25 on the services of a practitioner of an unregulated health
26 profession, the legislation shall implement a system of
27 certification.

28 *e.* If the legislative committee determines that adequate
29 regulation cannot be achieved by means other than licensing,
30 the legislation shall implement a system of licensing.

31 3. The legislative committee shall submit its findings
32 regarding whether the proposed legislation meets the conditions
33 in subsections 1 and 2 to the president of the senate and the
34 speaker of the house of representatives, who shall make the
35 findings available to each member of the general assembly.

1 Sec. 3. NEW SECTION. 272C.14 Proposed regulation of
2 unregulated health professions — written reports.

3 1. A member of the general assembly introducing proposed
4 legislation to regulate an unregulated health profession
5 shall submit with the legislation a report, prepared by the
6 legislative services agency, addressing the requirements
7 contained in subsection 2. The report shall be submitted to
8 the president of the senate and the speaker of the house of
9 representatives and made available on the internet site of the
10 general assembly.

11 2. The report shall address all of the following and
12 identify the source of all information contained in the report:

13 *a.* Why regulation is necessary including all of the
14 following:

15 (1) The nature of the potential harm to the public if the
16 unregulated health profession is not regulated and the extent
17 to which there is a threat to the public health, safety, or
18 welfare.

19 (2) The extent to which consumers need and will benefit
20 from a method of regulation, including the identification
21 of competent practitioners and typical employers in the
22 profession.

23 (3) The extent of autonomy a practitioner has, as indicated
24 by the extent to which the profession calls for the exercise
25 of independent judgment and the extent to which a practitioner
26 is supervised.

27 *b.* The efforts made to address the problem addressed by the
28 legislation including all of the following:

29 (1) Voluntary efforts, if any, undertaken by members of the
30 profession.

31 (2) Recourse to, and the extent of use of, applicable law
32 and whether the law could be amended to control the problem.

33 *c.* The alternatives considered including all of the
34 following:

35 (1) Regulation of business employers or practitioners

1 rather than employee practitioners.

2 (2) Regulation of the program or service rather than
3 individual practitioners.

4 (3) Registration of all practitioners.

5 (4) Certification of all practitioners.

6 (5) Other viable alternatives.

7 (6) If licensing is sought, why licensing would serve to
8 protect the public interest.

9 d. The benefit to the public if regulation is granted
10 including all of the following:

11 (1) The extent to which the incidence of specific problems
12 present in the unregulated health profession can reasonably be
13 expected to be reduced by regulation.

14 (2) Whether the public can identify qualified
15 practitioners.

16 (3) The extent to which the public can be confident that
17 qualified practitioners are competent including all of the
18 following:

19 (a) The composition, powers, duties, and practices of the
20 proposed regulatory entity.

21 (b) Whether current practitioners of an unregulated health
22 profession will be allowed to continue to practice and whether
23 they will be required to meet the qualifications for the
24 regulated health profession.

25 (c) The nature of the standards proposed for registration,
26 certification, or licensure as compared with the standards in
27 other jurisdictions.

28 (d) Whether the proposed regulatory entity would be
29 authorized to enter into reciprocity agreements with other
30 jurisdictions.

31 (e) The nature and duration of any training and experience
32 required, whether applicants will be required to pass an
33 examination, and whether there will be alternative methods to
34 enter the health profession.

35 (4) Assurances from the public that practitioners have

1 maintained their competence including all of the following:

2 (a) Whether a registration, certificate, or license will
3 include an expiration date.

4 (b) Whether the renewal of a registration, certificate,
5 or license will be based only on payment of a fee or whether
6 renewal will involve reexamination, peer review, or other
7 enforcement.

8 e. The extent to which regulation might harm the public
9 including all of the following:

10 (1) The extent to which regulation will restrict entry into
11 the profession including all of the following:

12 (a) Whether the proposed standards are more restrictive
13 than necessary to ensure a practitioner's safe and effective
14 performance in the practice of the profession.

15 (b) Whether the proposed legislation requires registered,
16 certified, or licensed practitioners in other jurisdictions
17 who relocate to this state to qualify in the same manner as
18 other applicants if the other jurisdiction has substantially
19 equivalent requirements for registration, certification, or
20 licensure.

21 (2) Whether there are professions similar to the
22 unregulated health profession that should be included in, or
23 portions of the unregulated health profession that should be
24 excluded from, the proposed legislation.

25 f. The maintenance of professional standards including all
26 of the following:

27 (1) Whether effective quality assurance standards exist
28 in the profession such as legal requirements associated with
29 specific programs that define or enforce standards or a code
30 of ethics.

31 (2) How the proposed legislation will ensure quality,
32 including whether a code of ethics will be adopted and the
33 grounds for suspension or revocation of a registration,
34 certificate, or license.

35 g. A description of the group proposed for regulation,

1 including a list of associations, organizations, and other
2 professional groups representing practitioners in this state,
3 an estimate of the number of practitioners in each professional
4 group, and whether the professional groups represent different
5 levels of practice.

6 *h.* The expected costs of regulation, including the impact of
7 costs on the public and costs imposed on this state.

8 Sec. 4. NEW SECTION. **272C.15 Proposed increased regulation**
9 **of regulated health professions — written reports.**

10 1. A member of the general assembly introducing proposed
11 legislation to expand the scope of practice of a regulated
12 health profession shall submit with the legislation a report,
13 prepared by the legislative services agency, addressing the
14 requirements contained in subsection 2. The report shall be
15 submitted to the president of the senate and the speaker of the
16 house of representatives and made available on the internet
17 site of the general assembly.

18 2. The report shall address all of the following and
19 identify the source of all information contained in the report:

20 *a.* Why an expanded scope of practice for the regulated
21 health profession is beneficial, including the extent to which
22 health care consumers need and will benefit from safe, quality
23 health care from practitioners within the expanded scope of
24 practice.

25 *b.* Whether expanding the scope of practice of practitioners
26 in the regulated health profession will require practitioners
27 to have didactic and clinical education from accredited
28 professional schools or training from recognized programs that
29 prepare them to perform within the proposed expanded scope of
30 practice, and specific educational or training requirements for
31 that proposed expanded scope of practice.

32 *c.* Whether the subject matter of the proposed expanded scope
33 of practice is currently tested by nationally recognized and
34 accepted examinations for applicants for professional licensure
35 and the details of the examination relating to the expanded

1 scope of practice.

2 *d.* The extent to which the proposed expanded scope
3 of practice will impact the practice of practitioners
4 currently licensed in this state or the entry into practice
5 of practitioners who have relocated from other states with
6 substantially equivalent requirements for registration,
7 certification, or licensure in this state.

8 *e.* The extent to which implementing the proposed expanded
9 scope of practice may result in savings or a cost to this state
10 and to the public.

11 *f.* The relevant regulated health profession licensure laws,
12 if any, in this state and other states.

13 *g.* Recommendations, if any, the applicable regulatory entity
14 or entities, the department of public health, and accredited
15 educational or training programs.

16 3. *a.* Prior to considering proposed legislation to
17 expand the scope of practice of a regulated health profession
18 for passage to the floor of the senate or the house of
19 representatives, a legislative committee to which proposed
20 legislation has been referred shall consider all of the
21 following:

22 (1) Whether the expansion of a regulated health
23 profession's scope of practice is only for the purpose of
24 protecting the public from a specific harm or danger.

25 (2) Whether the addition of adequately trained
26 practitioners providing an expanded range of health care
27 services will have a beneficial effect on the public and
28 increase access to safe, quality health care.

29 (3) Whether any changes in the entity regulating the
30 regulated health profession are necessary to protect the
31 public.

32 *b.* The legislative committee shall not consider competition
33 with or from other regulated health professions or whether a
34 practitioner will be able to obtain health insurance coverage
35 for the proposed expanded scope of practice.

1 Sec. 5. NEW SECTION. **272C.16 Continuing education**
2 **requirements — evidence of efficacy.**

3 A member of the general assembly introducing proposed
4 legislation to impose or increase a continuing education
5 requirement on a regulated health profession shall submit with
6 the legislation evidence that such a requirement has proven
7 effective for the health profession. The evidence shall be
8 submitted to the president of the senate and the speaker of the
9 house of representatives and made available on the internet
10 site of the general assembly.

11 Sec. 6. NEW SECTION. **272C.17 Regulation of unregulated**
12 **nonhealth professions.**

13 1. An unregulated nonhealth profession shall not be
14 regulated except for the exclusive purpose of protecting the
15 public interest. All proposed legislation to regulate an
16 unregulated nonhealth profession shall be reviewed by the
17 legislative committee to which the proposed legislation is
18 referred to ensure that all of the following requirements are
19 met:

20 *a.* The unregulated practice of the nonhealth profession can
21 clearly harm the public health, safety, or welfare.

22 *b.* The actual or anticipated public benefit of the
23 regulation clearly exceeds the costs imposed by the regulation
24 on consumers, businesses, and individuals.

25 *c.* The public needs and can reasonably be expected
26 to benefit from an assurance of initial and continuing
27 professional ability.

28 *d.* The public cannot be effectively protected by private
29 certification or other alternatives.

30 2. If a legislative committee finds that the proposed
31 legislation satisfies the conditions in subsection 1, the
32 committee shall examine data from multiple sources and shall
33 consider evidence of actual harm to the public related to
34 the unregulated nonhealth profession being considered for
35 regulation. The evidence may include industry association

1 data; federal, state, and local government data; business
2 reports; complaints to law enforcement, relevant state
3 agencies, and the better business bureau; and data from
4 agencies in other states with and without similar systems of
5 regulation.

6 3. If, after consideration of evidence pursuant to
7 subsection 2, the legislative committee finds that it is
8 necessary to regulate an unregulated nonhealth profession, the
9 committee shall review the proposed legislation to determine
10 whether it is the least restrictive regulation necessary and
11 whether the regulation protects a discrete interest group from
12 economic competition.

13 4. The legislative committee shall submit its findings
14 regarding whether the proposed legislation meets the
15 requirements of subsections 1, 2, and 3 to the president of the
16 senate and the speaker of the house of representatives, who
17 shall make the findings available to each member of the general
18 assembly.

19 Sec. 7. NEW SECTION. 272C.18 Proposed regulation of
20 unregulated nonhealth professions — written reports.

21 1. A member of the general assembly introducing legislation
22 to regulate an unregulated nonhealth profession shall submit
23 with the legislation a report, prepared by the legislative
24 services agency, addressing the requirements contained in
25 subsection 2. The report shall be submitted to the president
26 of the senate and the speaker of the house of representatives
27 and made available on the internet site of the general
28 assembly.

29 2. The report shall address all of the following and
30 identify the source of all information contained in the report:

31 a. Why regulation is necessary including what particular
32 problem regulation would address.

33 b. The efforts made to address the problem.

34 c. The alternatives considered.

35 d. The benefit to the public of regulating the profession.

1 e. The extent to which regulation might harm the public.

2 f. The maintenance of professional standards including all
3 of the following:

4 (1) Whether effective quality assurance standards exist
5 in the profession such as legal requirements associated with
6 specific programs that define or enforce standards or a code
7 of ethics.

8 (2) How the proposed legislation will assure quality
9 including the extent to which a code of ethics will be
10 adopted and the grounds for the suspension or revocation of a
11 registration, certificate, or license.

12 g. A description of the profession proposed for regulation,
13 including a list of associations, organizations, and other
14 professional groups representing practitioners in this state,
15 an estimate of the number of practitioners in each profession,
16 and whether the professional groups represent different levels
17 of practice.

18 h. The expected costs of regulation, including the impact of
19 costs on the public and costs imposed on this state.

20 DIVISION II

21 BOARD REVIEWS

22 Sec. 8. Section 2.69, subsections 4, 5, and 6, Code 2020,
23 are amended by striking the subsections.

24 Sec. 9. NEW SECTION. 4A.2 Definitions.

25 As used in this chapter, unless the context otherwise
26 requires:

27 1. "Board" means any board, council, commission, committee,
28 panel, review team, or foundation of this state, except that
29 "board" does not include a pension board or the Iowa ethics and
30 campaign disclosure board created in section 68B.32.

31 2. "Board review criteria" means the criteria required to be
32 considered under section 4A.5.

33 3. "Committee" means the state government efficiency review
34 committee created pursuant to section 2.69.

35 Sec. 10. NEW SECTION. 4A.3 Committee — review of boards.

1 1. The committee shall carry out the functions provided in
2 this chapter.

3 2. Administrative assistance shall be provided by the
4 legislative services agency and by staff of each caucus of the
5 general assembly.

6 Sec. 11. NEW SECTION. **4A.5 Board reviews.**

7 1. The committee shall review the usefulness, performance,
8 and efficacy of each board as provided in subsection 2. The
9 committee shall hold hearings to receive the testimony of the
10 public and of the chief executive officer of the board. After
11 completing a review, the committee shall prepare and publish
12 a report of its findings and recommendations as provided in
13 section 4A.6.

14 2. The legislative services agency shall establish a
15 schedule for the committee to review each board such that
16 the committee reviews approximately one-fifth of all boards
17 each calendar year and each board has been reviewed once
18 between the calendar years 2021 and 2026. The committee may
19 modify the schedule as necessary to facilitate the efficient
20 administration of the committee.

21 3. A board that is scheduled for review shall submit a
22 report to the committee prior to the date that it is scheduled
23 for review that includes all of the following information:

24 a. The board's primary purpose and its goals and objectives.

25 b. The board's past and anticipated workload, the number of
26 staff required to complete that workload, and the board's total
27 number of staff.

28 c. The board's past and anticipated budgets and its sources
29 of funding.

30 d. The number of members that compose the governing board or
31 other governing entity of the board and member compensation,
32 if any.

33 4. A board subject to review shall bear the burden of
34 demonstrating to the committee a public need for its continued
35 existence. In determining whether a board has met that

1 burden, the committee shall consider all of the following, as
2 applicable:

3 *a.* Whether continuation of the board is necessary to protect
4 the health, safety, or welfare of the public, and if so,
5 whether the board's authority is narrowly tailored to protect
6 against present, recognizable, and significant harms to the
7 health, safety, or welfare of the public.

8 *b.* Whether the public could be protected or served in an
9 alternate or less restrictive manner.

10 *c.* Whether the board serves a specific private interest.

11 *d.* Whether rules adopted by the board are consistent with
12 the legislative mandate of the board as expressed in the
13 statutes that created and empowered the board.

14 *e.* The extent to which the board's jurisdiction and programs
15 overlap or duplicate those of other boards, the extent to which
16 the board coordinates with those other boards, and the extent
17 to which the board's programs could be consolidated with the
18 programs of other state departments or boards.

19 *f.* The number of other states that regulate the occupation,
20 whether a license is required to engage in the occupation in
21 other states, whether the initial licensing and license renewal
22 requirements for the occupation are substantially equivalent
23 in every state, and the amount of regulation exercised by the
24 board compared to the regulation, if any, in other states.

25 *g.* The extent to which significant changes in the board's
26 rules could prevent an individual licensed in this state from
27 practicing, or allow an individual licensed in this state to
28 practice, the same occupation in another jurisdiction without
29 obtaining an occupational license for that occupation in that
30 other jurisdiction.

31 *h.* Whether the board recognizes national uniform licensure
32 requirements for the occupation.

33 *i.* Whether private contractors could be used, in an
34 effective and efficient manner, either to assist the board in
35 the performance of its duties or to perform the board's duties

1 in place of the board.

2 *j.* Whether the operation of the board has inhibited economic
3 growth, reduced efficiency, or increased government costs.

4 *k.* An assessment of the authority of the board regarding
5 fees, inspections, enforcement, and penalties.

6 *l.* The extent to which the board has permitted qualified
7 applicants to serve the public.

8 *m.* The extent to which the board has allowed individuals to
9 practice elements of the occupation without a license.

10 *n.* The cost-effectiveness of the board in terms of the
11 number of employees, services rendered, and administrative
12 costs incurred, both past and present.

13 *o.* Whether the board's operation has been impeded or
14 enhanced by existing statutes and procedures and by budgetary,
15 resource, and personnel practices.

16 *p.* Whether the board has recommended statutory changes to
17 the general assembly that would benefit the public rather than
18 the individuals regulated by the board, if any, and whether the
19 board's recommendations and other policies have been adopted
20 and implemented.

21 *q.* Whether the board has required any individuals subject to
22 the board's regulations to report to the board the impact of
23 board rules and decisions on the public as they affect service
24 costs and service delivery.

25 *r.* Whether individuals regulated by the board, if any, have
26 been required to assess problems in their business operations
27 that affect the public.

28 *s.* Whether the board has encouraged public participation in
29 its rulemaking and decision making.

30 *t.* The efficiency with which formal public complaints filed
31 with the board have been processed to completion.

32 *u.* Whether the purpose for which the board was created has
33 been fulfilled, has changed, or no longer exists.

34 *v.* Whether federal law requires that the board be renewed
35 in some form.

1 w. An assessment of the administrative hearing process of
2 the board if the board has an administrative hearing process,
3 and whether the hearing process is consistent with due process
4 rights.

5 x. Whether the requirement for an occupational license
6 is consistent with the principles expressed in section 4C.2,
7 serves a meaningful, defined public interest, and provides the
8 least restrictive form of regulation that adequately protects
9 the public interest.

10 y. The extent to which licensing ensures that practitioners
11 have occupational skill sets or competencies that are
12 substantially related to protecting consumers from present,
13 significant, and substantiated harms that threaten the public
14 health, safety, or welfare, and the impact that those criteria
15 have on applicants for a license, particularly those with
16 moderate or low incomes, seeking to enter the occupation or
17 profession.

18 z. The extent to which the requirement for the occupational
19 license stimulates or restricts competition, affects consumer
20 choice, and affects the cost of services.

21 aa. An assessment of whether changes are needed in the
22 enabling laws of the board in order for the board to comply
23 with the criteria listed in this subsection.

24 Sec. 12. NEW SECTION. **4A.6 Reports of the committee.**

25 1. After completing a review of a board pursuant to section
26 4A.5, the committee shall prepare and submit a report of its
27 findings and recommendations by December 21. A report may
28 include findings and recommendations for more than one board.
29 Copies of the report shall be submitted to the president of
30 the senate, the speaker of the house of representatives, the
31 governor, and each affected board, and shall be made publicly
32 available on the internet site of the general assembly. The
33 committee shall present its recommendations to the general
34 assembly in the form of a bill.

35 2. Recommendations of the committee shall indicate how or

1 whether implementation of the recommendations would do each of
2 the following:

- 3 *a.* Improve efficiency in the management of state government.
- 4 *b.* Improve services rendered to citizens of the state.
- 5 *c.* Simplify and improve preparation of the state budget.
- 6 *d.* Conserve the natural resources of the state.
- 7 *e.* Promote the orderly growth of the state and its
8 government.
- 9 *f.* Promote occupational regulations to increase economic
10 opportunities, encourage competition, and encourage innovation.
- 11 *g.* Provide for the least restrictive regulations by
12 repealing current regulations and replacing them with less
13 restrictive regulations that are consistent with the principles
14 expressed in section 4C.2.
- 15 *h.* Improve the effectiveness of the services performed by
16 the boards of the state.
- 17 *i.* Avoid duplication of effort by state agencies or boards.
- 18 *j.* Improve the organization and coordination of the state
19 government.

20 Sec. 13. NEW SECTION. **4A.7 Activities of the general**
21 **assembly not restricted.**

22 This chapter shall not be construed to restrict the general
23 assembly from considering any legislation concerning a board
24 subject to this chapter.

25 Sec. 14. NEW SECTION. **4C.1 Definitions.**

26 For the purposes of this chapter:

27 1. "*Certification*" means a voluntary program in which
28 a private organization or the state grants nontransferable
29 recognition to an individual who meets personal qualifications
30 established by the private organization or state law.

31 2. "*Lawful occupation*" means a course of conduct, pursuit,
32 or profession that includes the sale of goods or services that
33 are not themselves illegal to sell irrespective of whether
34 the individual selling the goods or services is subject to an
35 occupational regulation.

- 1 3. "*Least restrictive regulation*" means the public policy of
2 relying on one of the following, listed from the least to the
3 most restrictive, as a means of consumer protection:
- 4 a. Market competition.
 - 5 b. Third-party or consumer-created ratings and reviews.
 - 6 c. Private certifications.
 - 7 d. Actions under section 714H.5.
 - 8 e. Actions under section 714.16.
 - 9 f. Regulation of the process of providing the specific goods
10 or services to consumers.
 - 11 g. Inspections.
 - 12 h. Bonding or insurance.
 - 13 i. Registrations.
 - 14 j. Government certifications.
 - 15 k. Occupational licenses, including specialty occupational
16 licenses for medical reimbursement.
- 17 4. "*Occupational license*" means a government permission slip
18 to work that is a nontransferable authorization in law that an
19 individual must possess in order to perform a lawful occupation
20 for compensation based on meeting personal qualifications
21 established by statute or by a rule authorized by statute.
22 "*Occupational license*" does not include a commercial or other
23 driver's license.
- 24 5. "*Occupational licensing board*" means any board,
25 commission, committee, or council, or any other similar state
26 public body, and any agency, division, or office of state
27 government, that issues an occupational license.
- 28 6. "*Occupational regulation*" means a statute, policy, rule,
29 practice, or other state law requiring an individual to possess
30 certain personal qualifications to use an occupational title or
31 work in a lawful occupation. "*Occupational regulation*" includes
32 a registration, certification, and occupational license.
33 "*Occupational regulation*" excludes a business license, facility
34 license, building permit, or zoning and land use regulation,
35 except to the extent those laws regulate an individual's

1 personal qualifications to perform a lawful occupation, and
2 excludes a commercial or other driver's license.

3 7. "*Personal qualifications*" means criteria related to an
4 individual's personal background and characteristics including
5 completion of an approved educational program, satisfactory
6 performance on an examination, work experience, other evidence
7 of attainment of requisite skills or knowledge, moral standing,
8 criminal history, and completion of continuing education.

9 8. "*Registration*" means a requirement to give notice to the
10 government that may include the individual's name and address,
11 the individual's agent for service of process, the location of
12 the activity to be performed, and a description of the service
13 the individual provides. "*Registration*" does not include
14 personal qualifications but may require a bond or insurance.

15 9. "*Specialty occupational license for medical reimbursement*"
16 is a nontransferable authorization in law for an individual
17 to qualify for payment or reimbursement from a government
18 agency for providing identified medical services based on
19 meeting personal qualifications established in law which may be
20 recognized by a private company.

21 Sec. 15. NEW SECTION. **4C.2 Occupational regulation**
22 **principles.**

23 With respect to the occupational regulation of individuals,
24 all of the following shall be policies of this state:

25 1. Occupational regulations shall be construed and applied
26 to increase economic opportunities, promote competition, and
27 encourage innovation.

28 2. If the state finds it is necessary to displace
29 competition, the state shall use the least restrictive
30 regulation to protect consumers from present, significant,
31 and substantiated harms that threaten public health, safety,
32 or welfare. The policy of employing the least restrictive
33 regulation shall presume that market competition and private
34 remedies are sufficient to protect consumers. If necessary,
35 regulations shall be tailored to meet the predominate

1 identified need to protect consumers as follows:

2 *a.* If a regulation is intended to protect consumers against
3 fraud, the appropriate state action shall be to strengthen
4 powers under deceptive trade practices acts.

5 *b.* If a regulation is intended to protect consumers against
6 unsanitary facilities and general health, safety, or welfare
7 concerns, the appropriate state action shall be to require
8 periodic inspections.

9 *c.* If a regulation is intended to protect a consumer against
10 potential damages to a third party who is not a party to a
11 contract between the seller and buyer, and other types of
12 externalities, the appropriate state action shall be to require
13 bonding or insurance.

14 *d.* If a regulation is intended to protect a consumer against
15 potential damages by transient providers, the appropriate state
16 action shall be to require registration with the secretary of
17 state.

18 *e.* If a regulation is intended to protect a consumer
19 against asymmetrical information between the seller and buyer,
20 the appropriate state action shall be to offer voluntary
21 certification, unless appropriate, privately offered voluntary
22 certification for the relevant occupation is available.

23 *f.* If a regulation is intended to facilitate governmental
24 reimbursement for providing medical services for an emerging
25 medical specialty, the appropriate state action shall be
26 to require a specialty occupational license for medical
27 reimbursement. A person shall not be required to hold a
28 specialty occupational license for medical reimbursement in
29 order to lawfully provide a medical service for an emerging
30 medical specialty; however, a person providing a medical
31 service for an emerging medical specialty without a specialty
32 occupational license for medical reimbursement shall not
33 receive governmental reimbursement for providing that service.
34 A specialty occupational license for medical reimbursement
35 shall not restrict governmental reimbursement for services

1 similar to the regulated service that may be provided by other
2 regulated persons.

3 *g.* If a regulation is required to perform services
4 regulated by both federal laws and the laws of this state,
5 the appropriate state action shall be to require the state
6 to recognize an individual's occupational license from
7 another state or territory of the United States to allow that
8 individual to practice in this state.

9 3. An occupational regulation may be enforced against an
10 individual only to the extent the individual sells goods and
11 services that are included explicitly in the statute that
12 defines the occupation's scope of practice.

13 4. This chapter shall not restrict an occupational
14 licensing board from requiring, as a condition of licensure
15 or renewal of licensure, that an individual's personal
16 qualifications include obtaining or maintaining certification
17 from a private organization that credentials individuals in the
18 relevant occupation.

19 Sec. 16. NEW SECTION. 4C.3 Local licensing — preemption.

20 This chapter preempts any ordinance or other local law or
21 regulation which conflicts with or is inconsistent with any
22 policy of the state expressed in this chapter by any political
23 subdivision that regulates an occupation that is not regulated
24 by the state.

25 DIVISION III

26 ACCOUNTABLE GOVERNMENT ACT REPORTS

27 Sec. 17. Section 8E.210, Code 2020, is amended by adding the
28 following new subsection:

29 NEW SUBSECTION. 1A. In addition to the requirements
30 of subsection 1, an agency's annual performance report
31 shall include a description of how the agency improved
32 efficiency, modernized processes, eliminated duplication and
33 outdated processes, reduced costs, increased accountability,
34 expanded the use of technology, and incorporated productivity
35 improvement measures. The section of the annual performance

1 report addressing the factors listed in this subsection shall
2 be submitted to the state government committee of each chamber
3 of the general assembly and made publicly available on the
4 internet site of the general assembly.

5 DIVISION IV

6 PROFESSIONAL LICENSING BOARD INVESTIGATIONS

7 Sec. 18. Section 272C.3, subsection 1, paragraph d, Code
8 2020, is amended to read as follows:

9 *d.* Determine in any case whether an investigation, or
10 further investigation, or a disciplinary proceeding is
11 warranted. Notwithstanding the provisions of **chapter 17A**,
12 a determination by a licensing board that an investigation
13 is not warranted or that an investigation should be closed
14 without initiating a disciplinary proceeding is not subject to
15 judicial review pursuant to **section 17A.19**. Notwithstanding
16 any other provision of law, if a board determines that there
17 is no probable cause to believe that an asserted violation has
18 occurred, the complaint shall be returned to the complainant
19 with a statement specifying the reasons for rejection
20 sufficient to enable the complainant to review the agency's
21 determination.

22 DIVISION V

23 ADMINISTRATIVE RULES REVIEW COMMITTEE REVIEW OF ENTRY
24 REGULATIONS

25 Sec. 19. NEW SECTION. **17A.35 Review of occupational entry**
26 **regulations.**

27 1. For purposes of this section, unless the context
28 otherwise requires:

29 *a.* "Entry regulation" means any rule adopted pursuant to
30 chapter 17A by a licensing board for the purpose of regulating
31 an occupational or professional group, including but not
32 limited to any rule prescribing qualifications or requirements
33 for a person's entry into, or continued participation in, any
34 business, trade, profession, or occupation in this state.

35 *b.* "Licensing board" or "board" means the same as defined

1 in section 272C.1.

2 2. A licensing board shall designate any entry regulation
3 filed with the administrative rules coordinator and
4 administrative code editor pursuant to section 17A.4 or 17A.5
5 as an entry regulation in the preamble.

6 3. The administrative rules review committee, when
7 reviewing a rule pursuant to section 17A.8, subsection 6, that
8 is designated as an entry regulation by a licensing board,
9 shall consider the following factors when reviewing the rule:

10 a. Whether the entry regulation is required by state or
11 federal law.

12 b. Whether the entry regulation is necessary to protect the
13 public health, safety, or welfare.

14 c. Whether the purpose or effect of the entry regulation is
15 to unnecessarily inhibit competition or arbitrarily deny entry
16 into a business, trade, profession, or occupation.

17 d. Whether the intended purpose of the entry regulation
18 could be accomplished by less restrictive or burdensome means.

19 e. Whether the entry regulation is outside of the scope of
20 the licensing board's statutory authority to adopt rules.

21 4. The administrative rules review committee, when
22 considering the factors provided in subsection 3, shall not
23 give deference to a statement or interpretation made by a
24 licensing board regarding an entry regulation, statute, or
25 other legal authority.

26 5. If the administrative rules review committee disapproves
27 of an entry regulation after consideration of the factors
28 provided in subsection 3, the committee may take any action on
29 the rule otherwise permitted to the committee.

30 6. a. No later than December 31, 2020, each licensing board
31 shall submit to the administrative rules review committee a
32 list of all entry regulations adopted by the board that are in
33 effect as of the date of submission.

34 b. The administrative rules review committee shall review
35 all entry regulations submitted to the committee pursuant

1 to paragraph "a" by December 31, 2024. The committee shall
2 prescribe a schedule for such review and shall update the
3 schedule as necessary. The schedule shall be posted by the
4 legislative services agency on the general assembly's internet
5 site.

6 Sec. 20. APPLICABILITY. Section 17A.35, subsection
7 2, as enacted by this Act, applies to rules filed with the
8 administrative rules coordinator and administrative code editor
9 pursuant to section 17A.4 or 17A.5, for publication in an Iowa
10 administrative bulletin published on or after July 29, 2020.

11 DIVISION VI

12 EFFECTIVE DATE

13 Sec. 21. EFFECTIVE DATE. This Act, being deemed of
14 immediate importance, takes effect upon enactment.

15 EXPLANATION

16 The inclusion of this explanation does not constitute agreement with
17 the explanation's substance by the members of the general assembly.

18 This bill relates to the operation of state government,
19 including the review and sunset of state boards and agencies
20 and the regulation of professions. The bill is organized into
21 divisions.

22 DIVISION I — REGULATION OF PROFESSIONS. The division
23 relates to the regulation of professions. The bill requires
24 a legislative committee reviewing legislation to impose
25 regulations on a health profession that is not currently
26 subject to regulation by the state to verify that: the
27 unregulated practice of the profession will clearly harm or
28 endanger the public, the public will benefit from assurances
29 of professional ability, and the public cannot be effectively
30 protected in a more cost-efficient manner. The legislative
31 committee must then verify that the legislation is the least
32 restrictive method of regulation to protect the public. After
33 completing its review, the bill requires the committee to
34 submit its findings to the president of the senate and speaker
35 of the house of representatives, who shall make the findings

1 available to each member of the general assembly.

2 The bill requires a member of the general assembly
3 introducing legislation to regulate an unregulated health
4 profession to submit a report, prepared by the legislative
5 services agency, with the legislation addressing why the
6 regulation is necessary, the efforts that have been made to
7 address the problem, the alternatives considered, the benefits
8 and harms to the public from regulation, the maintenance of
9 professional standards, and shall include a description of the
10 profession proposed for regulation and the expected costs of
11 regulation. The report shall be submitted to the president of
12 the senate and the speaker of the house of representatives, and
13 shall be made publicly available on the internet site of the
14 general assembly.

15 The bill requires a member of the general assembly
16 introducing legislation to expand the scope of practice of a
17 regulated health profession to submit a report, prepared by the
18 legislative services agency, addressing why the expanded scope
19 of practice is beneficial, whether practitioners currently
20 have or will be required to obtain training because of the
21 expanded scope of practice, whether the new practice is
22 currently tested by a nationally recognized examination, the
23 extent to which the expanded scope of practice will impact
24 the practice of professionals currently in the state or who
25 relocate to the state, the costs or savings from the expanded
26 scope of practice, relevant laws in other states, and any
27 recommendations from regulatory entities. The report shall be
28 submitted to the president of the senate and the speaker of the
29 house of representatives, and shall be made publicly available
30 on the internet site of the general assembly. A legislative
31 committee reviewing such legislation shall consider whether the
32 scope of practice is being expanded only to protect the public,
33 whether the expansion of services will benefit the public, and
34 whether any changes to the entity regulating the profession
35 are necessary. The committee shall not consider competitive

1 implications of expanding the scope of practice.

2 The bill requires a member of the general assembly
3 introducing legislation to impose or increase a continuing
4 education requirement on a health profession to submit evidence
5 of the efficacy of the requirement to the president of the
6 senate and the speaker of the house of representatives. The
7 evidence shall also be made publicly available on the internet
8 site of the general assembly.

9 The bill requires a legislative committee reviewing
10 legislation to impose a regulation on an unregulated nonhealth
11 profession to consider whether the unregulated practice of the
12 profession can clearly harm the public, whether the benefits
13 of regulation clearly exceeds the costs imposed on consumers,
14 and whether the public needs assurances of professional
15 ability. If the committee finds in the affirmative with
16 respect to the preceding factors, the committee shall examine
17 data to find evidence of actual harm to the public related
18 to the unregulated nonhealth profession being considered
19 for regulation. If the committee finds that regulation is
20 necessary, the committee shall review the legislation to
21 determine whether it is the least restrictive regulation
22 necessary to protect the public and that it is not being
23 imposed to protect a profession from economic competition. The
24 committee shall submit its findings to the president of the
25 senate and the speaker of the house of representatives, who
26 shall make the findings available to each member of the general
27 assembly.

28 The bill requires a member of the general assembly
29 introducing legislation to regulate an unregulated nonhealth
30 profession to submit a report, prepared by the legislative
31 services agency, addressing why regulation is necessary,
32 the efforts made to address the problem, the alternatives
33 considered, the benefits and harm to the public, the
34 maintenance of professional standards, the professional groups
35 proposed for regulation, and the expected costs of regulation.

1 DIVISION II — STATE BOARD REVIEWS. This division relates
2 to the review of state boards.

3 The bill requires the state government efficiency review
4 committee to review the usefulness, performance, and efficacy
5 of the board. The legislative services agency shall create
6 a schedule, which the committee may revise, for review of
7 approximately one-fifth of all boards each calendar year
8 between the year 2021 and the year 2026. The bill removes
9 duties of the state government efficiency review committee not
10 related to the review of boards.

11 A board that is subject to review shall submit a report to
12 the committee prior to the date the board is scheduled for
13 a sunset review that includes certain information specified
14 in the bill, and shall bear the burden of demonstrating a
15 continued public need for its existence. The bill provides
16 several factors for the committee to consider.

17 After completing a review, the committee shall prepare
18 a report of its findings and recommendations, which report
19 may include findings and recommendations for more than one
20 board. The committee shall present its findings to the general
21 assembly in the form of a bill. The committee shall include
22 with its recommendations an explanation of the benefits of
23 implementing the recommendations.

24 The division does not restrict the general assembly from
25 taking any other action with respect to regulating boards.

26 The division creates principles for the imposition of
27 professional regulations. The principles created by the
28 bill include a policy of enacting the least restrictive
29 regulation necessary to protect the public, encouraging
30 economic opportunities and competition, providing guidance
31 for determining what style of regulation is appropriate, and
32 enforcing an occupational regulation against an individual only
33 to the extent that it is explicitly provided for by a statute.
34 The bill does not prohibit a licensing board from requiring
35 licensees to obtain credentials from private organizations.

1 The bill enacts a rule of construction that any law of a
2 political subdivision regulating a profession that is not
3 regulated by the state shall be preempted if it is inconsistent
4 with the principles expressed in the bill.

5 DIVISION III — ACCOUNTABLE GOVERNMENT ACT REPORTS. The
6 division relates to accountable government Act reports
7 submitted by agencies. The bill requires such reports
8 to include descriptions of how the agency has improved
9 efficiency, modernized processes, eliminated duplication and
10 outdated processes, reduced costs, increased accountability,
11 expanded the use of technology, and incorporated productivity
12 improvement measures. This portion of the report shall be
13 submitted to the state government committee of both chambers of
14 the general assembly and posted publicly on the internet site
15 of the general assembly.

16 DIVISION IV — PROFESSIONAL LICENSING BOARD INVESTIGATIONS.
17 This division relates to investigations by professional
18 licensing boards. The bill strikes the provision that a
19 determination by a licensing board that an investigation is not
20 warranted or should be closed without a disciplinary hearing
21 is not subject to judicial review. However, the bill requires
22 a board that determines that no probable cause exists for
23 an asserted violation to return the complaint asserting the
24 violation to the complainant with a statement specifying the
25 reasons for rejection of the complaint.

26 DIVISION V — ADMINISTRATIVE RULES REVIEW COMMITTEE
27 REVIEW OF ENTRY REGULATIONS. This division requires the
28 administrative rules review committee (ARRC), when reviewing an
29 entry regulation, to consider certain factors specified in the
30 bill.

31 The bill defines "entry regulation" as any rule adopted
32 pursuant to Code chapter 17A by a licensing board for the
33 purpose of regulating an occupational or professional
34 group, including but not limited to any rule prescribing
35 qualifications or requirements for a person's entry into, or

1 continued participation in, any business, trade, profession, or
2 occupation in this state.

3 The bill provides that the ARRC shall not give deference to a
4 statement or interpretation made by a licensing board regarding
5 an entry regulation, statute, or other legal authority when
6 considering the factors. If the ARRC disapproves of an entry
7 regulation after consideration of the factors provided in
8 the bill, the ARRC may take any action on the rule otherwise
9 permitted to the ARRC.

10 The bill requires each licensing board to submit to the
11 ARRC no later than December 31, 2020, a list of all entry
12 regulations adopted by the board that are in effect as of the
13 date of submission.

14 The bill requires the ARRC to review all submitted entry
15 regulations by December 31, 2024, and to establish and update a
16 schedule for such review. The schedule shall be posted on the
17 general assembly's internet site by the legislative services
18 agency.

19 The bill requires that an entry regulation be designated as
20 such in the preamble to the entry regulation, beginning with
21 the July 29, 2020, Iowa administrative bulletin.

22 DIVISION VI — EFFECTIVE DATE. The bill takes effect upon
23 enactment.