

Senate Study Bill 1046 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON SMITH)

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 and applicability
5 provisions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

REGULATION OF PROFESSIONS

Section 1. NEW SECTION. **272C.16 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.17 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 health or safety. 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 or safety 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
16 that involves a hazard to the public health or safety, 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 or safety is
21 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 or the
34 speaker of the house of representatives, who shall make the
35 findings available to each member of the general assembly on

1 the internet site of the general assembly.

2 Sec. 3. NEW SECTION. 272C.18 Proposed regulation of
3 unregulated health professions — written reports.

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

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

15 a. Why regulation is necessary including all of the
16 following:

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

20 (2) The extent of autonomy a practitioner has, as indicated
21 by the extent to which the profession calls for the exercise
22 of independent judgment and the extent to which a practitioner
23 is supervised.

24 b. The efforts made to address the problem addressed by the
25 legislation including all of the following:

26 (1) Voluntary efforts, if any, undertaken by members of the
27 profession.

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

30 c. The alternatives considered including all of the
31 following:

32 (1) Regulation of business employers or practitioners
33 rather than employee practitioners.

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

1 (3) Registration of all practitioners.

2 (4) Certification of all practitioners.

3 (5) Other viable alternatives.

4 (6) If licensing is sought, why licensing would serve to
5 protect the public health or safety.

6 *d.* The benefit to the public health or safety if regulation
7 is granted including all of the following:

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

11 (2) Whether the public can identify qualified
12 practitioners.

13 (3) The extent to which qualified practitioners are
14 competent including all of the following:

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

17 (b) Whether current practitioners of an unregulated health
18 profession will be allowed to continue to practice and whether
19 they will be required to meet the qualifications for the
20 regulated health profession.

21 (c) The nature of the standards proposed for registration,
22 certification, or licensure as compared with the standards in
23 other jurisdictions.

24 (d) Whether the proposed regulatory entity would be
25 authorized to enter into reciprocity agreements with other
26 jurisdictions.

27 (e) The nature and duration of any training and experience
28 required, whether applicants will be required to pass an
29 examination, and whether there will be alternative methods to
30 enter the health profession.

31 (4) Assurances to the public that practitioners have
32 maintained their competence including all of the following:

33 (a) Whether a registration, certificate, or license will
34 include an expiration date.

35 (b) Whether the renewal of a registration, certificate,

1 or license will be based only on payment of a fee or whether
2 renewal will involve reexamination, peer review, or other
3 enforcement.

4 *e.* The extent to which regulation might harm the public
5 including all of the following:

6 (1) The extent to which regulation will restrict entry into
7 the profession, including whether the proposed standards are
8 more restrictive than necessary to ensure a practitioner's safe
9 and effective performance in the practice of the profession.

10 (2) Whether there are professions similar to the
11 unregulated health profession that should be included in, or
12 portions of the unregulated health profession that should be
13 excluded from, the proposed legislation.

14 *f.* The maintenance of professional standards including all
15 of the following:

16 (1) Whether effective quality assurance standards exist
17 in the profession such as legal requirements associated with
18 specific programs that define or enforce standards or a code
19 of ethics.

20 (2) How the proposed legislation will ensure quality,
21 including whether a code of ethics will be adopted and the
22 grounds for suspension or revocation of a registration,
23 certificate, or license.

24 *g.* A description of the group proposed for regulation,
25 including a list of associations, organizations, and other
26 professional groups representing practitioners in this state,
27 an estimate of the number of practitioners in each professional
28 group, and whether the professional groups represent different
29 levels of practice.

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

32 **Sec. 4. NEW SECTION. 272C.19 Proposed increased regulation**
33 **of regulated health professions — written reports.**

34 1. A member of the general assembly introducing proposed
35 legislation to expand the scope of practice of a regulated

1 health profession shall submit with the legislation a report,
2 prepared by the legislative services agency, addressing the
3 requirements contained in subsection 2. The report shall be
4 submitted to the president of the senate or the speaker of the
5 house of representatives prior to full consideration of the
6 legislation by the senate or the house of representatives and
7 made available on the internet site of the general assembly.

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

10 a. Why an expanded scope of practice for the regulated
11 health profession is beneficial, including the extent to which
12 health care consumers need and will benefit from safe, quality
13 health care from practitioners within the expanded scope of
14 practice.

15 b. Whether expanding the scope of practice of practitioners
16 in the regulated health profession will require practitioners
17 to have didactic and clinical education from accredited
18 professional schools or training from recognized programs that
19 prepare them to perform within the proposed expanded scope of
20 practice, and specific educational or training requirements for
21 that proposed expanded scope of practice.

22 c. Whether the subject matter of the proposed expanded scope
23 of practice is currently tested by nationally recognized and
24 accepted examinations for applicants for professional licensure
25 and the details of the examination relating to the expanded
26 scope of practice.

27 d. The extent to which the proposed expanded scope
28 of practice will impact the practice of practitioners
29 currently licensed in this state or the entry into practice
30 of practitioners who have relocated from other states with
31 substantially equivalent requirements for registration,
32 certification, or licensure in this state.

33 e. The extent to which implementing the proposed expanded
34 scope of practice may result in savings or a cost to this state
35 and to the public.

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

3 *g.* Recommendations, if any, the applicable regulatory entity
4 or entities, the department of public health, and accredited
5 educational or training programs.

6 3. *a.* Prior to considering proposed legislation to
7 expand the scope of practice of a regulated health profession
8 for passage to the floor of the senate or the house of
9 representatives, a legislative committee to which proposed
10 legislation has been referred shall consider all of the
11 following:

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

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

19 (3) Whether any changes in the entity regulating the
20 regulated health profession are necessary to protect the public
21 health or safety.

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

26 Sec. 5. NEW SECTION. 272C.20 Continuing education
27 requirements — evidence of efficacy.

28 A member of the general assembly introducing proposed
29 legislation to impose or increase a continuing education
30 requirement on a regulated health profession shall submit with
31 the legislation evidence that such a requirement has proven
32 effective for the health profession. The evidence shall be
33 submitted to the president of the senate or the speaker of the
34 house of representatives prior to full consideration of the
35 legislation by the senate or the house of representatives and

1 made available on the internet site of the general assembly.

2 Sec. 6. NEW SECTION. **272C.21 Regulation of unregulated**
3 **nonhealth professions.**

4 1. An unregulated nonhealth profession shall not be
5 regulated except for the exclusive purpose of protecting the
6 public health or safety. All proposed legislation to regulate
7 an unregulated nonhealth profession shall be reviewed by the
8 legislative committee to which the proposed legislation is
9 referred to ensure that all of the following requirements are
10 met:

11 *a.* The unregulated practice of the nonhealth profession can
12 clearly harm the public health or safety.

13 *b.* The actual or anticipated public benefit of the
14 regulation clearly exceeds the costs imposed by the regulation
15 on consumers, businesses, and individuals.

16 *c.* The public needs and can reasonably be expected
17 to benefit from an assurance of initial and continuing
18 professional ability.

19 *d.* The public cannot be effectively protected by private
20 certification or other alternatives.

21 2. If a legislative committee finds that the proposed
22 legislation satisfies the conditions in subsection 1, the
23 committee shall examine data from multiple sources and shall
24 consider evidence of actual harm to the public related to
25 the unregulated nonhealth profession being considered for
26 regulation. The evidence may include industry association
27 data; federal, state, and local government data; business
28 reports; complaints to law enforcement, relevant state
29 agencies, and the better business bureau; and data from
30 agencies in other states with and without similar systems of
31 regulation.

32 3. If, after consideration of evidence pursuant to
33 subsection 2, the legislative committee finds that it is
34 necessary to regulate an unregulated nonhealth profession, the
35 committee shall review the proposed legislation to determine

1 whether it is the least restrictive regulation necessary and
2 whether the regulation protects a discrete interest group from
3 economic competition.

4 4. The legislative committee shall submit its findings
5 regarding whether the proposed legislation meets the
6 requirements of subsections 1, 2, and 3 to the president of
7 the senate or the speaker of the house of representatives, who
8 shall make the findings available to each member of the general
9 assembly on the internet site of the general assembly.

10 Sec. 7. NEW SECTION. **272C.22 Proposed regulation of**
11 **unregulated nonhealth professions — written reports.**

12 1. A member of the general assembly introducing legislation
13 to regulate an unregulated nonhealth profession shall submit
14 with the legislation a report, prepared by the legislative
15 services agency, addressing the requirements contained in
16 subsection 2. The report shall be submitted to the president
17 of the senate or the speaker of the house of representatives
18 prior to full consideration of the legislation by the senate or
19 the house of representatives and made available on the internet
20 site of the general assembly.

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

23 a. Why regulation is necessary including what particular
24 problem regulation would address.

25 b. The efforts made to address the problem.

26 c. The alternatives considered.

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

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

29 f. The maintenance of professional standards including all
30 of the following:

31 (1) Whether effective quality assurance standards exist
32 in the profession such as legal requirements associated with
33 specific programs that define or enforce standards or a code
34 of ethics.

35 (2) How the proposed legislation will assure quality

1 including the extent to which a code of ethics will be
2 adopted and the grounds for the suspension or revocation of a
3 registration, certificate, or license.

4 *g.* A description of the profession proposed for regulation,
5 including a list of associations, organizations, and other
6 professional groups representing practitioners in this state,
7 an estimate of the number of practitioners in each profession,
8 and whether the professional groups represent different levels
9 of practice.

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

12 Sec. 8. REPEAL. Section 3.20, Code 2021, is repealed.

13 DIVISION II

14 BOARD REVIEWS

15 Sec. 9. Section 2.69, subsection 1, Code 2021, is amended
16 to read as follows:

17 1. A state government efficiency review committee is
18 established which shall meet ~~at least every two years to review~~
19 ~~the operations of state government~~ monthly, as necessary,
20 to efficiently review all boards according to the schedule
21 established by the legislative services agency pursuant to
22 section 4A.5. The committee shall meet as directed by the
23 legislative council.

24 Sec. 10. Section 2.69, subsection 2, paragraph a, Code 2021,
25 is amended to read as follows:

26 *a.* The committee shall consist of three members of the
27 senate appointed by the majority leader of the senate, two
28 members of the senate appointed by the minority leader of the
29 senate, three members of the house of representatives appointed
30 by the speaker of the house of representatives, ~~and~~ two members
31 of the house of representatives appointed by the minority
32 leader of the house of representatives, and one ex officio,
33 nonvoting member appointed by the governor.

34 Sec. 11. Section 2.69, subsections 4, 5, and 6, Code 2021,
35 are amended by striking the subsections.

1 Sec. 12. NEW SECTION. **4A.1 Definitions.**

2 As used in this chapter, unless the context otherwise
3 requires:

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

8 2. "*Board review criteria*" means the criteria required to be
9 considered under section 4A.3.

10 3. "*Committee*" means the state government efficiency review
11 committee created pursuant to section 2.69.

12 Sec. 13. NEW SECTION. **4A.2 Committee — review of boards.**

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

15 2. Administrative assistance shall be provided by the
16 legislative services agency and by staff of each caucus of the
17 general assembly.

18 Sec. 14. NEW SECTION. **4A.3 Board reviews.**

19 1. The committee shall review the usefulness, performance,
20 and efficacy of each board as provided in subsection 2. The
21 committee shall hold hearings to receive the testimony of the
22 public and of the chief executive officer of the board. After
23 completing a review, the committee shall prepare and publish
24 a report of its findings and recommendations as provided in
25 section 4A.4.

26 2. The legislative services agency shall establish a
27 schedule for the committee to review each board such that
28 the committee reviews approximately one-fifth of all boards
29 each calendar year and each board has been reviewed once
30 between the calendar years 2022 and 2027. The committee may
31 modify the schedule as necessary to facilitate the efficient
32 administration of the committee.

33 3. A board that is scheduled for review shall submit a
34 report to the committee thirty days prior to the date that it
35 is scheduled for review that includes all of the following

1 information:

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

3 *b.* The board's past and anticipated workload, the number of
4 staff required to complete that workload, and the board's total
5 number of staff.

6 *c.* The board's past and anticipated budgets and its sources
7 of funding.

8 *d.* The number of members that compose the governing board or
9 other governing entity of the board and member compensation,
10 if any.

11 4. A board subject to review shall bear the burden of
12 demonstrating to the committee a public need for its continued
13 existence. In determining whether a board has met that
14 burden, the committee shall consider all of the following, as
15 applicable:

16 *a.* Whether continuation of the board is necessary to protect
17 the health or safety of the public, and if so, whether the
18 board's authority is narrowly tailored to protect against
19 present, recognizable, and significant harms to the health or
20 safety of the public.

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

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

24 *d.* Whether rules adopted by the board are consistent with
25 the legislative mandate of the board as expressed in the
26 statutes that created and empowered the board.

27 *e.* The extent to which the board's jurisdiction and programs
28 overlap or duplicate those of other boards, the extent to which
29 the board coordinates with those other boards, and the extent
30 to which the board's programs could be consolidated with the
31 programs of other state departments or boards.

32 *f.* The number of other states that regulate the occupation,
33 whether a license is required to engage in the occupation in
34 other states, whether the initial licensing and license renewal
35 requirements for the occupation are substantially equivalent

1 in every state, and the amount of regulation exercised by the
2 board compared to the regulation, if any, in other states.

3 *g.* Whether the board recognizes national uniform licensure
4 requirements for the occupation.

5 *h.* Whether private contractors could be used, in an
6 effective and efficient manner, either to assist the board in
7 the performance of its duties or to perform the board's duties
8 in place of the board.

9 *i.* Whether the operation of the board has inhibited economic
10 growth, reduced efficiency, or increased government costs.

11 *j.* An assessment of the authority of the board regarding
12 fees, inspections, enforcement, and penalties.

13 *k.* The extent to which the board has permitted qualified
14 applicants to serve the public.

15 *l.* The extent to which the board has allowed individuals to
16 practice elements of the occupation without a license.

17 *m.* The cost-effectiveness of the board in terms of the
18 number of employees, services rendered, and administrative
19 costs incurred, both past and present.

20 *n.* Whether the board's operation has been impeded or
21 enhanced by existing statutes and procedures and by budgetary,
22 resource, and personnel practices.

23 *o.* Whether the board has recommended statutory changes to
24 the general assembly that would benefit the public rather than
25 the individuals regulated by the board, if any, and whether the
26 board's recommendations and other policies have been adopted
27 and implemented.

28 *p.* Whether the board has required any individuals subject to
29 the board's regulations to report to the board the impact of
30 board rules and decisions on the public as they affect service
31 costs and service delivery.

32 *q.* Whether individuals regulated by the board, if any, have
33 been required to assess problems in their business operations
34 that affect the public.

35 *r.* Whether the board has encouraged public participation in

1 its rulemaking and decision making.

2 *s.* The efficiency with which formal public complaints filed
3 with the board have been processed to completion.

4 *t.* Whether the purpose for which the board was created has
5 been fulfilled, has changed, or no longer exists.

6 *u.* Whether federal law requires that the board be renewed
7 in some form.

8 *v.* An assessment of the administrative hearing process of
9 the board if the board has an administrative hearing process,
10 and whether the hearing process is consistent with due process
11 rights.

12 *w.* Whether the requirement for an occupational license
13 is consistent with the principles expressed in section 4B.2,
14 serves the public health or safety, and provides the least
15 restrictive form of regulation that adequately protects the
16 public health or safety.

17 *x.* The extent to which licensing ensures that practitioners
18 have occupational skill sets or competencies that are
19 substantially related to protecting consumers from present,
20 significant, and substantiated harms that threaten the public
21 health or safety, and the impact that those criteria have on
22 applicants for a license, particularly those with moderate or
23 low incomes, seeking to enter the occupation or profession.

24 *y.* The extent to which the requirement for the occupational
25 license stimulates or restricts competition, affects consumer
26 choice, and affects the cost of services.

27 *z.* An assessment of whether changes are needed in the
28 enabling laws of the board in order for the board to comply
29 with the criteria listed in this subsection.

30 **Sec. 15. NEW SECTION. 4A.4 Reports of the committee.**

31 1. After completing a review of a board pursuant to section
32 4A.3, the committee shall prepare and submit a report of its
33 findings and recommendations by December 21 of each year
34 beginning in 2022 and ending in 2027. A report may include
35 findings and recommendations for more than one board. Copies

1 of the report shall be submitted to the president of the
2 senate, the speaker of the house of representatives, the
3 governor, and each affected board, and shall be made publicly
4 available on the internet site of the general assembly. The
5 committee shall present its recommendations to the general
6 assembly in the form of a bill.

7 2. Recommendations of the committee shall indicate how or
8 whether implementation of the recommendations would do each of
9 the following:

10 a. Improve efficiency in the management of state government.
11 b. Improve services rendered to citizens of the state.
12 c. Simplify and improve preparation of the state budget.
13 d. Conserve the natural resources of the state.
14 e. Promote the orderly growth of the state and its
15 government.

16 f. Promote occupational regulations to increase economic
17 opportunities, encourage competition, and encourage innovation.

18 g. Provide for the least restrictive regulations by
19 repealing current regulations and replacing them with less
20 restrictive regulations that are consistent with the principles
21 expressed in section 4B.2.

22 h. Improve the effectiveness of the services performed by
23 the boards of the state.

24 i. Avoid duplication of effort by state agencies or boards.

25 j. Improve the organization and coordination of the state
26 government.

27 Sec. 16. NEW SECTION. **4A.5 Activities of the general**
28 **assembly not restricted.**

29 This chapter shall not be construed to restrict the general
30 assembly from considering any legislation concerning a board
31 subject to this chapter.

32 Sec. 17. NEW SECTION. **4B.1 Definitions.**

33 For the purposes of this chapter:

34 1. "*Certification*" means a voluntary program in which
35 a private organization or the state grants nontransferable

1 recognition to an individual who meets personal qualifications
2 established by the private organization or state law.

3 2. "*Lawful occupation*" means a course of conduct, pursuit,
4 or profession that includes the sale of goods or services that
5 are not themselves illegal to sell irrespective of whether
6 the individual selling the goods or services is subject to an
7 occupational regulation.

8 3. "*Least restrictive regulation*" means the public policy of
9 relying on one of the following, listed from the least to the
10 most restrictive, as a means of consumer protection:

11 a. Market competition.

12 b. Third-party or consumer-created ratings and reviews.

13 c. Private certifications.

14 d. Actions under section 714H.5.

15 e. Actions under section 714.16.

16 f. Regulation of the process of providing the specific goods
17 or services to consumers.

18 g. Inspections.

19 h. Bonding or insurance.

20 i. Registrations.

21 j. Government certifications.

22 k. Occupational licenses, including specialty occupational
23 licenses for medical reimbursement.

24 4. "*Occupational license*" means a government permission slip
25 to work that is a nontransferable authorization in law that an
26 individual must possess in order to perform a lawful occupation
27 for compensation based on meeting personal qualifications
28 established by statute or by a rule authorized by statute.

29 "*Occupational license*" does not include a commercial or other
30 driver's license.

31 5. "*Occupational licensing board*" means any board,
32 commission, committee, or council, or any other similar state
33 public body, and any agency, division, or office of state
34 government, that issues an occupational license.

35 6. "*Occupational regulation*" means a statute, policy, rule,

1 practice, or other state law requiring an individual to possess
2 certain personal qualifications to use an occupational title or
3 work in a lawful occupation. *“Occupational regulation”* includes
4 a registration, certification, and occupational license.
5 *“Occupational regulation”* excludes a business license, facility
6 license, building permit, or zoning and land use regulation,
7 except to the extent those laws regulate an individual’s
8 personal qualifications to perform a lawful occupation, and
9 excludes a commercial or other driver’s license.

10 7. *“Personal qualifications”* means criteria related to an
11 individual’s personal background and characteristics including
12 completion of an approved educational program, satisfactory
13 performance on an examination, work experience, other evidence
14 of attainment of requisite skills or knowledge, moral standing,
15 criminal history, and completion of continuing education.

16 8. *“Registration”* means a requirement to give notice to the
17 government that may include the individual’s name and address,
18 the individual’s agent for service of process, the location of
19 the activity to be performed, and a description of the service
20 the individual provides. *“Registration”* does not include
21 personal qualifications but may require a bond or insurance.

22 9. *“Specialty occupational license for medical reimbursement”*
23 is a nontransferable authorization in law for an individual
24 to qualify for payment or reimbursement from a government
25 agency for providing identified medical services based on
26 meeting personal qualifications established in law which may be
27 recognized by a private company.

28 Sec. 18. NEW SECTION. **4B.2 Occupational regulation**
29 **principles.**

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

32 1. Occupational regulations shall be construed and applied
33 to increase economic opportunities, promote competition, and
34 encourage innovation.

35 2. If the state finds it is necessary to displace

1 competition, the state shall use the least restrictive
2 regulation to protect consumers from present, significant, and
3 substantiated harms that threaten public health or safety. The
4 policy of employing the least restrictive regulation shall
5 presume that market competition and private remedies are
6 sufficient to protect consumers. If necessary, regulations
7 shall be tailored to meet the predominate identified need to
8 protect consumers as follows:

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

12 *b.* If a regulation is intended to protect consumers against
13 unsanitary facilities and general health or safety concerns,
14 the appropriate state action shall be to require periodic
15 inspections.

16 *c.* If a regulation is intended to protect a consumer against
17 potential damages to a third party who is not a party to a
18 contract between the seller and buyer, and other types of
19 externalities, the appropriate state action shall be to require
20 bonding or insurance.

21 *d.* If a regulation is intended to protect a consumer against
22 potential damages by transient providers, the appropriate state
23 action shall be to require registration with the secretary of
24 state.

25 *e.* If a regulation is intended to protect a consumer
26 against asymmetrical information between the seller and buyer,
27 the appropriate state action shall be to offer voluntary
28 certification, unless appropriate, privately offered voluntary
29 certification for the relevant occupation is available.

30 *f.* If a regulation is intended to facilitate governmental
31 reimbursement for providing medical services for an emerging
32 medical specialty, the appropriate state action shall be
33 to require a specialty occupational license for medical
34 reimbursement. A person shall not be required to hold a
35 specialty occupational license for medical reimbursement in

1 order to lawfully provide a medical service for an emerging
2 medical specialty; however, a person providing a medical
3 service for an emerging medical specialty without a specialty
4 occupational license for medical reimbursement shall not
5 receive governmental reimbursement for providing that service.
6 A specialty occupational license for medical reimbursement
7 shall not restrict governmental reimbursement for services
8 similar to the regulated service that may be provided by other
9 regulated persons.

10 *g.* If a regulation is required to perform services
11 regulated by both federal laws and the laws of this state,
12 the appropriate state action shall be to require the state
13 to recognize an individual's occupational license from
14 another state or territory of the United States to allow that
15 individual to practice in this state.

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

20 4. This chapter shall not restrict an occupational
21 licensing board from requiring, as a condition of licensure
22 or renewal of licensure, that an individual's personal
23 qualifications include obtaining or maintaining certification
24 from a private organization that credentials individuals in the
25 relevant occupation.

26 Sec. 19. NEW SECTION. **4B.3 Local licensing — preemption.**

27 This chapter preempts any ordinance or other local law or
28 regulation which conflicts with or is inconsistent with any
29 policy of the state expressed in this chapter by any political
30 subdivision that regulates an occupation that is not regulated
31 by the state.

32 DIVISION III

33 ACCOUNTABLE GOVERNMENT ACT REPORTS

34 Sec. 20. Section 8E.210, Code 2021, is amended by adding the
35 following new subsection:

1 NEW SUBSECTION. 1A. In addition to the requirements
 2 of subsection 1, an agency's annual performance report
 3 shall include a description of how the agency improved
 4 efficiency, modernized processes, eliminated duplication and
 5 outdated processes, reduced costs, increased accountability,
 6 expanded the use of technology, and incorporated productivity
 7 improvement measures. The section of the annual performance
 8 report addressing the factors listed in this subsection shall
 9 be submitted to the state government committee of each chamber
 10 of the general assembly and made publicly available on the
 11 internet site of the general assembly.

DIVISION IV

PROFESSIONAL LICENSING BOARD INVESTIGATIONS

14 Sec. 21. Section 272C.3, subsection 1, paragraph d, Code
 15 2021, is amended to read as follows:

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

DIVISION V

ADMINISTRATIVE RULES REVIEW COMMITTEE REVIEW OF ENTRY
REGULATIONS

32 Sec. 22. NEW SECTION. 17A.35 Review of occupational entry
 33 regulations.

34 1. For purposes of this section, unless the context
 35 otherwise requires:

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

7 *b. "Licensing board" or "board"* means the same as defined
8 in section 272C.1.

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

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

17 *a.* Whether the entry regulation is required by state or
18 federal law.

19 *b.* Whether the entry regulation is necessary to protect the
20 public health or safety.

21 *c.* Whether the purpose or effect of the entry regulation is
22 to unnecessarily inhibit competition or arbitrarily deny entry
23 into a business, trade, profession, or occupation.

24 *d.* Whether the intended purpose of the entry regulation
25 could be accomplished by less restrictive or burdensome means.

26 *e.* Whether the entry regulation is outside of the scope of
27 the licensing board's statutory authority to adopt rules.

28 4. The administrative rules review committee, when
29 considering the factors provided in subsection 3, shall not
30 give deference to a statement or interpretation made by a
31 licensing board regarding an entry regulation, statute, or
32 other legal authority.

33 5. If the administrative rules review committee disapproves
34 of an entry regulation after consideration of the factors
35 provided in subsection 3, the committee may take any action on

1 the rule otherwise permitted to the committee.

2 6. a. No later than December 31, 2021, each licensing board
3 shall submit to the administrative rules review committee a
4 list of all entry regulations adopted by the board that are in
5 effect as of the date of submission.

6 b. The administrative rules review committee shall review
7 all entry regulations submitted to the committee pursuant
8 to paragraph "a" by December 31, 2025. The committee shall
9 prescribe a schedule for such review and shall update the
10 schedule as necessary. The schedule shall be posted by the
11 legislative services agency on the general assembly's internet
12 site.

13 Sec. 23. APPLICABILITY. Section 17A.35, subsection
14 2, as enacted by this Act, applies to rules filed with the
15 administrative rules coordinator and administrative code editor
16 pursuant to section 17A.4 or 17A.5 for publication in an Iowa
17 administrative bulletin published on or after May 1, 2021.

18 DIVISION VI

19 EFFECTIVE DATE

20 Sec. 24. EFFECTIVE DATE. This Act, being deemed of
21 immediate importance, takes effect upon enactment.

22 EXPLANATION

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

25 This bill relates to the operation of state government,
26 including the review and sunset of state boards and agencies
27 and the regulation of professions. The bill is organized into
28 divisions.

29 DIVISION I — REGULATION OF PROFESSIONS. The division
30 relates to the regulation of professions. The bill requires
31 a legislative committee reviewing legislation to impose
32 regulations on a health profession that is not currently
33 subject to regulation by the state to verify that: the
34 unregulated practice of the profession will clearly harm or
35 endanger the public, the public will benefit from assurances

1 of professional ability, and the public cannot be effectively
2 protected in a more cost-efficient manner. The legislative
3 committee must then verify that the legislation is the least
4 restrictive method of regulation to protect the public. After
5 completing its review, the bill requires the committee to
6 submit its findings to the president of the senate and speaker
7 of the house of representatives, who shall make the findings
8 available to each member of the general assembly on the
9 internet site of the general assembly.

10 The bill requires a member of the general assembly
11 introducing legislation to regulate an unregulated health
12 profession to submit a report, prepared by the legislative
13 services agency, with the legislation addressing why the
14 regulation is necessary, the efforts that have been made to
15 address the problem, the alternatives considered, the benefits
16 and harms to the public from regulation, the maintenance of
17 professional standards, and shall include a description of the
18 profession proposed for regulation and the expected costs of
19 regulation. The report shall be submitted to the president
20 of the senate and the speaker of the house of representatives
21 prior to full consideration of the legislation, and shall be
22 made publicly available on the internet site of the general
23 assembly.

24 The bill requires a member of the general assembly
25 introducing legislation to expand the scope of practice of a
26 regulated health profession to submit a report, prepared by the
27 legislative services agency, addressing why the expanded scope
28 of practice is beneficial, whether practitioners currently
29 have or will be required to obtain training because of the
30 expanded scope of practice, whether the new practice is
31 currently tested by a nationally recognized examination, the
32 extent to which the expanded scope of practice will impact
33 the practice of professionals currently in the state or who
34 relocate to the state, the costs or savings from the expanded
35 scope of practice, relevant laws in other states, and any

1 recommendations from regulatory entities. The report shall be
2 submitted to the president of the senate and the speaker of
3 the house of representatives prior to full consideration of
4 the legislation, and shall be made publicly available on the
5 internet site of the general assembly. A legislative committee
6 reviewing such legislation shall consider whether the scope
7 of practice is being expanded only to protect the public,
8 whether the expansion of services will benefit the public, and
9 whether any changes to the entity regulating the profession
10 are necessary. The committee shall not consider competitive
11 implications of expanding the scope of practice.

12 The bill requires a member of the general assembly
13 introducing legislation to impose or increase a continuing
14 education requirement on a health profession to submit evidence
15 of the efficacy of the requirement to the president of the
16 senate and the speaker of the house of representatives. The
17 evidence shall also be made publicly available on the internet
18 site of the general assembly.

19 The bill requires a legislative committee reviewing
20 legislation to impose a regulation on an unregulated nonhealth
21 profession to consider whether the unregulated practice of the
22 profession can clearly harm the public, whether the benefits
23 of regulation clearly exceeds the costs imposed on consumers,
24 and whether the public needs assurances of professional
25 ability. If the committee finds in the affirmative with
26 respect to the preceding factors, the committee shall examine
27 data to find evidence of actual harm to the public related
28 to the unregulated nonhealth profession being considered
29 for regulation. If the committee finds that regulation is
30 necessary, the committee shall review the legislation to
31 determine whether it is the least restrictive regulation
32 necessary to protect the public and that it is not being
33 imposed to protect a profession from economic competition. The
34 committee shall submit its findings to the president of the
35 senate and the speaker of the house of representatives, who

1 shall make the findings available to each member of the general
2 assembly.

3 The bill requires a member of the general assembly
4 introducing legislation to regulate an unregulated nonhealth
5 profession to submit a report prior to full consideration of
6 the legislation, prepared by the legislative services agency,
7 addressing why regulation is necessary, the efforts made to
8 address the problem, the alternatives considered, the benefits
9 and harm to the public, the maintenance of professional
10 standards, the professional groups proposed for regulation, and
11 the expected costs of regulation.

12 The bill repeals a Code provision creating principles to
13 guide the general assembly for the state licensure of an
14 occupation or profession.

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

17 The bill requires the state government efficiency review
18 committee to meet monthly, as necessary, to review the
19 usefulness, performance, and efficacy of the board. The
20 legislative services agency shall create a schedule, which the
21 committee may revise, for review of approximately one-fifth of
22 all boards each calendar year between the year 2022 and the
23 year 2027. The bill removes duties of the state government
24 efficiency review committee not related to the review of
25 boards. The bill adds one ex officio, nonvoting member
26 appointed by the governor to the committee.

27 A board that is subject to review shall submit a report to
28 the committee prior to the date the board is scheduled for
29 a sunset review that includes certain information specified
30 in the bill, and shall bear the burden of demonstrating a
31 continued public need for its existence. The bill provides
32 several factors for the committee to consider.

33 After completing a review, the committee shall prepare a
34 report of its findings and recommendations by December 21 of
35 each year beginning in 2022 and ending in 2027, which report

1 may include findings and recommendations for more than one
2 board. The committee shall present its findings to the general
3 assembly in the form of a bill. The committee shall include
4 with its recommendations an explanation of the benefits of
5 implementing the recommendations.

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

8 The division creates principles for the imposition of
9 professional regulations. The principles created by the
10 bill include a policy of enacting the least restrictive
11 regulation necessary to protect the public, encouraging
12 economic opportunities and competition, providing guidance
13 for determining what style of regulation is appropriate, and
14 enforcing an occupational regulation against an individual only
15 to the extent that it is explicitly provided for by a statute.
16 The bill does not prohibit a licensing board from requiring
17 licensees to obtain credentials from private organizations.
18 The bill enacts a rule of construction that any law of a
19 political subdivision regulating a profession that is not
20 regulated by the state shall be preempted if it is inconsistent
21 with the principles expressed in the bill.

22 DIVISION III — ACCOUNTABLE GOVERNMENT ACT REPORTS. The
23 division relates to accountable government Act reports
24 submitted by agencies. The bill requires such reports
25 to include descriptions of how the agency has improved
26 efficiency, modernized processes, eliminated duplication and
27 outdated processes, reduced costs, increased accountability,
28 expanded the use of technology, and incorporated productivity
29 improvement measures. This portion of the report shall be
30 submitted to the state government committee of both chambers of
31 the general assembly and posted publicly on the internet site
32 of the general assembly.

33 DIVISION IV — PROFESSIONAL LICENSING BOARD INVESTIGATIONS.
34 This division relates to investigations by professional
35 licensing boards. The bill strikes the provision that a

1 determination by a licensing board that an investigation is not
2 warranted or should be closed without a disciplinary hearing
3 is not subject to judicial review. However, the bill requires
4 a board that determines that no probable cause exists for
5 an asserted violation to return the complaint asserting the
6 violation to the complainant with a statement specifying the
7 reasons for rejection of the complaint.

8 DIVISION V — ADMINISTRATIVE RULES REVIEW COMMITTEE
9 REVIEW OF ENTRY REGULATIONS. This division requires the
10 administrative rules review committee (ARRC), when reviewing an
11 entry regulation, to consider certain factors specified in the
12 bill.

13 The bill defines "entry regulation" as any rule adopted
14 pursuant to Code chapter 17A by a licensing board for the
15 purpose of regulating an occupational or professional
16 group, including but not limited to any rule prescribing
17 qualifications or requirements for a person's entry into, or
18 continued participation in, any business, trade, profession, or
19 occupation in this state.

20 The bill provides that the ARRC shall not give deference to a
21 statement or interpretation made by a licensing board regarding
22 an entry regulation, statute, or other legal authority when
23 considering the factors. If the ARRC disapproves of an entry
24 regulation after consideration of the factors provided in
25 the bill, the ARRC may take any action on the rule otherwise
26 permitted to the ARRC.

27 The bill requires each licensing board to submit to the
28 ARRC no later than December 31, 2021, a list of all entry
29 regulations adopted by the board that are in effect as of the
30 date of submission.

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

S.F. _____

1 The bill includes an applicability provision requiring that
2 an entry regulation be designated as such in the preamble to
3 the entry regulation, beginning with the May 1, 2021, Iowa
4 administrative bulletin.

5 DIVISION VI — EFFECTIVE DATE. The bill takes effect upon
6 enactment.