

Senate File 2392 - Reprinted

SENATE FILE 2392
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 3142)

(As Amended and Passed by the Senate March 10, 2020)

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 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.14 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 potential 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, safety, or
20 welfare.

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

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

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

31 (1) Voluntary efforts, if any, undertaken by members of the
32 profession.

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

35 c. The alternatives considered including all of the

1 following:

2 (1) Regulation of business employers or practitioners
3 rather than employee practitioners.

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

6 (3) Registration of all practitioners.

7 (4) Certification of all practitioners.

8 (5) Other viable alternatives.

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

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

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

16 (2) Whether the public can identify qualified
17 practitioners.

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

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

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

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

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

33 (e) The nature and duration of any training and experience
34 required, whether applicants will be required to pass an
35 examination, and whether there will be alternative methods to

1 enter the health profession.

2 (4) Assurances from the public that practitioners have
3 maintained their competence including all of the following:

4 (a) Whether a registration, certificate, or license will
5 include an expiration date.

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

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

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

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

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

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

27 f. The maintenance of professional standards including all
28 of the following:

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

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

1 certificate, or license.

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

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

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

12 1. A member of the general assembly introducing proposed
13 legislation to expand the scope of practice of a regulated
14 health profession shall submit with the legislation a report,
15 prepared by the legislative services agency, addressing the
16 requirements contained in subsection 2. The report shall be
17 submitted to the president of the senate or the speaker of the
18 house of representatives prior to full consideration of the
19 legislation by the senate or the house of representatives and
20 made available on the internet 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 an expanded scope of practice for the regulated
24 health profession is beneficial, including the extent to which
25 health care consumers need and will benefit from safe, quality
26 health care from practitioners within the expanded scope of
27 practice.

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

35 *c.* Whether the subject matter of the proposed expanded scope

1 of practice is currently tested by nationally recognized and
2 accepted examinations for applicants for professional licensure
3 and the details of the examination relating to the expanded
4 scope of practice.

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

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

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

16 *g.* Recommendations, if any, the applicable regulatory entity
17 or entities, the department of public health, and accredited
18 educational or training programs.

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

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

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

32 (3) Whether any changes in the entity regulating the
33 regulated health profession are necessary to protect the
34 public.

35 *b.* The legislative committee shall not consider competition

1 with or from other regulated health professions or whether a
2 practitioner will be able to obtain health insurance coverage
3 for the proposed expanded scope of practice.

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

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

15 Sec. 6. NEW SECTION. **272C.17 Regulation of unregulated**
16 **nonhealth professions.**

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

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

26 *b.* The actual or anticipated public benefit of the
27 regulation clearly exceeds the costs imposed by the regulation
28 on consumers, businesses, and individuals.

29 *c.* The public needs and can reasonably be expected
30 to benefit from an assurance of initial and continuing
31 professional ability.

32 *d.* The public cannot be effectively protected by private
33 certification or other alternatives.

34 2. If a legislative committee finds that the proposed
35 legislation satisfies the conditions in subsection 1, the

1 committee shall examine data from multiple sources and shall
2 consider evidence of actual harm to the public related to
3 the unregulated nonhealth profession being considered for
4 regulation. The evidence may include industry association
5 data; federal, state, and local government data; business
6 reports; complaints to law enforcement, relevant state
7 agencies, and the better business bureau; and data from
8 agencies in other states with and without similar systems of
9 regulation.

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

17 4. The legislative committee shall submit its findings
18 regarding whether the proposed legislation meets the
19 requirements of subsections 1, 2, and 3 to the president of
20 the senate or the speaker of the house of representatives, who
21 shall make the findings available to each member of the general
22 assembly on the internet site of the general assembly.

23 **Sec. 7. NEW SECTION. 272C.18 Proposed regulation of**
24 **unregulated nonhealth professions — written reports.**

25 1. A member of the general assembly introducing legislation
26 to regulate an unregulated nonhealth profession shall submit
27 with the legislation a report, prepared by the legislative
28 services agency, addressing the requirements contained in
29 subsection 2. The report shall be submitted to the president
30 of the senate or the speaker of the house of representatives
31 prior to full consideration of the legislation by the senate or
32 the house of representatives and made available on the internet
33 site of the general assembly.

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

1 a. Why regulation is necessary including what particular
2 problem regulation would address.

3 b. The efforts made to address the problem.

4 c. The alternatives considered.

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

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

7 f. The maintenance of professional standards including all
8 of the following:

9 (1) Whether effective quality assurance standards exist
10 in the profession such as legal requirements associated with
11 specific programs that define or enforce standards or a code
12 of ethics.

13 (2) How the proposed legislation will assure quality
14 including the extent to which a code of ethics will be
15 adopted and the grounds for the suspension or revocation of a
16 registration, certificate, or license.

17 g. A description of the profession proposed for regulation,
18 including a list of associations, organizations, and other
19 professional groups representing practitioners in this state,
20 an estimate of the number of practitioners in each profession,
21 and whether the professional groups represent different levels
22 of practice.

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

25 DIVISION II

26 BOARD REVIEWS

27 Sec. 8. Section 2.69, subsection 1, Code 2020, is amended
28 to read as follows:

29 1. A state government efficiency review committee is
30 established which shall meet ~~at least every two years to review~~
31 ~~the operations of state government~~ monthly, as necessary,
32 to efficiently review all boards according to the schedule
33 established by the legislative services agency pursuant to
34 section 4A.5. The committee shall meet as directed by the
35 legislative council.

1 Sec. 9. Section 2.69, subsection 2, paragraph a, Code 2020,
2 is amended to read as follows:

3 a. The committee shall consist of three members of the
4 senate appointed by the majority leader of the senate, two
5 members of the senate appointed by the minority leader of the
6 senate, three members of the house of representatives appointed
7 by the speaker of the house of representatives, ~~and~~ two members
8 of the house of representatives appointed by the minority
9 leader of the house of representatives, and one ex officio,
10 nonvoting member appointed by the governor.

11 Sec. 10. Section 2.69, subsections 4, 5, and 6, Code 2020,
12 are amended by striking the subsections.

13 Sec. 11. NEW SECTION. **4A.2 Definitions.**

14 As used in this chapter, unless the context otherwise
15 requires:

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

20 2. "*Board review criteria*" means the criteria required to be
21 considered under section 4A.5.

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

24 Sec. 12. NEW SECTION. **4A.3 Committee — review of boards.**

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

27 2. Administrative assistance shall be provided by the
28 legislative services agency and by staff of each caucus of the
29 general assembly.

30 Sec. 13. NEW SECTION. **4A.5 Board reviews.**

31 1. The committee shall review the usefulness, performance,
32 and efficacy of each board as provided in subsection 2. The
33 committee shall hold hearings to receive the testimony of the
34 public and of the chief executive officer of the board. After
35 completing a review, the committee shall prepare and publish

1 a report of its findings and recommendations as provided in
2 section 4A.6.

3 2. The legislative services agency shall establish a
4 schedule for the committee to review each board such that
5 the committee reviews approximately one-fifth of all boards
6 each calendar year and each board has been reviewed once
7 between the calendar years 2021 and 2026. The committee may
8 modify the schedule as necessary to facilitate the efficient
9 administration of the committee.

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

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

14 b. The board's past and anticipated workload, the number of
15 staff required to complete that workload, and the board's total
16 number of staff.

17 c. The board's past and anticipated budgets and its sources
18 of funding.

19 d. The number of members that compose the governing board or
20 other governing entity of the board and member compensation,
21 if any.

22 4. A board subject to review shall bear the burden of
23 demonstrating to the committee a public need for its continued
24 existence. In determining whether a board has met that
25 burden, the committee shall consider all of the following, as
26 applicable:

27 a. Whether continuation of the board is necessary to protect
28 the health, safety, or welfare of the public, and if so,
29 whether the board's authority is narrowly tailored to protect
30 against present, recognizable, and significant harms to the
31 health, safety, or welfare of the public.

32 b. Whether the public could be protected or served in an
33 alternate or less restrictive manner.

34 c. Whether the board serves a specific private interest.

35 d. Whether rules adopted by the board are consistent with

1 the legislative mandate of the board as expressed in the
2 statutes that created and empowered the board.

3 *e.* The extent to which the board's jurisdiction and programs
4 overlap or duplicate those of other boards, the extent to which
5 the board coordinates with those other boards, and the extent
6 to which the board's programs could be consolidated with the
7 programs of other state departments or boards.

8 *f.* The number of other states that regulate the occupation,
9 whether a license is required to engage in the occupation in
10 other states, whether the initial licensing and license renewal
11 requirements for the occupation are substantially equivalent
12 in every state, and the amount of regulation exercised by the
13 board compared to the regulation, if any, in other states.

14 *g.* Whether the board recognizes national uniform licensure
15 requirements for the occupation.

16 *h.* Whether private contractors could be used, in an
17 effective and efficient manner, either to assist the board in
18 the performance of its duties or to perform the board's duties
19 in place of the board.

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

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

24 *k.* The extent to which the board has permitted qualified
25 applicants to serve the public.

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

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

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

34 *o.* Whether the board has recommended statutory changes to
35 the general assembly that would benefit the public rather than

1 the individuals regulated by the board, if any, and whether the
2 board's recommendations and other policies have been adopted
3 and implemented.

4 *p.* Whether the board has required any individuals subject to
5 the board's regulations to report to the board the impact of
6 board rules and decisions on the public as they affect service
7 costs and service delivery.

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

11 *r.* Whether the board has encouraged public participation in
12 its rulemaking and decision making.

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

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

17 *u.* Whether federal law requires that the board be renewed
18 in some form.

19 *v.* An assessment of the administrative hearing process of
20 the board if the board has an administrative hearing process,
21 and whether the hearing process is consistent with due process
22 rights.

23 *w.* Whether the requirement for an occupational license
24 is consistent with the principles expressed in section 4B.2,
25 serves a meaningful, defined public interest, and provides the
26 least restrictive form of regulation that adequately protects
27 the public interest.

28 *x.* The extent to which licensing ensures that practitioners
29 have occupational skill sets or competencies that are
30 substantially related to protecting consumers from present,
31 significant, and substantiated harms that threaten the public
32 health, safety, or welfare, and the impact that those criteria
33 have on applicants for a license, particularly those with
34 moderate or low incomes, seeking to enter the occupation or
35 profession.

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

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

7 Sec. 14. NEW SECTION. **4A.6 Reports of the committee.**

8 1. After completing a review of a board pursuant to section
9 4A.5, the committee shall prepare and submit a report of its
10 findings and recommendations by December 21. A report may
11 include findings and recommendations for more than one board.
12 Copies of the report shall be submitted to the president of
13 the senate, the speaker of the house of representatives, the
14 governor, and each affected board, and shall be made publicly
15 available on the internet site of the general assembly. The
16 committee shall present its recommendations to the general
17 assembly in the form of a bill.

18 2. Recommendations of the committee shall indicate how or
19 whether implementation of the recommendations would do each of
20 the following:

21 *a.* Improve efficiency in the management of state government.

22 *b.* Improve services rendered to citizens of the state.

23 *c.* Simplify and improve preparation of the state budget.

24 *d.* Conserve the natural resources of the state.

25 *e.* Promote the orderly growth of the state and its
26 government.

27 *f.* Promote occupational regulations to increase economic
28 opportunities, encourage competition, and encourage innovation.

29 *g.* Provide for the least restrictive regulations by
30 repealing current regulations and replacing them with less
31 restrictive regulations that are consistent with the principles
32 expressed in section 4B.2.

33 *h.* Improve the effectiveness of the services performed by
34 the boards of the state.

35 *i.* Avoid duplication of effort by state agencies or boards.

1 *j.* Improve the organization and coordination of the state
2 government.

3 Sec. 15. NEW SECTION. **4A.7 Activities of the general**
4 **assembly not restricted.**

5 This chapter shall not be construed to restrict the general
6 assembly from considering any legislation concerning a board
7 subject to this chapter.

8 Sec. 16. NEW SECTION. **4B.1 Definitions.**

9 For the purposes of this chapter:

10 1. "*Certification*" means a voluntary program in which
11 a private organization or the state grants nontransferable
12 recognition to an individual who meets personal qualifications
13 established by the private organization or state law.

14 2. "*Lawful occupation*" means a course of conduct, pursuit,
15 or profession that includes the sale of goods or services that
16 are not themselves illegal to sell irrespective of whether
17 the individual selling the goods or services is subject to an
18 occupational regulation.

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

22 *a.* Market competition.

23 *b.* Third-party or consumer-created ratings and reviews.

24 *c.* Private certifications.

25 *d.* Actions under section 714H.5.

26 *e.* Actions under section 714.16.

27 *f.* Regulation of the process of providing the specific goods
28 or services to consumers.

29 *g.* Inspections.

30 *h.* Bonding or insurance.

31 *i.* Registrations.

32 *j.* Government certifications.

33 *k.* Occupational licenses, including specialty occupational
34 licenses for medical reimbursement.

35 4. "*Occupational license*" means a government permission slip

1 to work that is a nontransferable authorization in law that an
2 individual must possess in order to perform a lawful occupation
3 for compensation based on meeting personal qualifications
4 established by statute or by a rule authorized by statute.
5 "*Occupational license*" does not include a commercial or other
6 driver's license.

7 5. "*Occupational licensing board*" means any board,
8 commission, committee, or council, or any other similar state
9 public body, and any agency, division, or office of state
10 government, that issues an occupational license.

11 6. "*Occupational regulation*" means a statute, policy, rule,
12 practice, or other state law requiring an individual to possess
13 certain personal qualifications to use an occupational title or
14 work in a lawful occupation. "*Occupational regulation*" includes
15 a registration, certification, and occupational license.
16 "*Occupational regulation*" excludes a business license, facility
17 license, building permit, or zoning and land use regulation,
18 except to the extent those laws regulate an individual's
19 personal qualifications to perform a lawful occupation, and
20 excludes a commercial or other driver's license.

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

27 8. "*Registration*" means a requirement to give notice to the
28 government that may include the individual's name and address,
29 the individual's agent for service of process, the location of
30 the activity to be performed, and a description of the service
31 the individual provides. "*Registration*" does not include
32 personal qualifications but may require a bond or insurance.

33 9. "*Specialty occupational license for medical reimbursement*"
34 is a nontransferable authorization in law for an individual
35 to qualify for payment or reimbursement from a government

1 agency for providing identified medical services based on
2 meeting personal qualifications established in law which may be
3 recognized by a private company.

4 Sec. 17. NEW SECTION. **4B.2 Occupational regulation**
5 **principles.**

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

8 1. Occupational regulations shall be construed and applied
9 to increase economic opportunities, promote competition, and
10 encourage innovation.

11 2. If the state finds it is necessary to displace
12 competition, the state shall use the least restrictive
13 regulation to protect consumers from present, significant,
14 and substantiated harms that threaten public health, safety,
15 or welfare. The policy of employing the least restrictive
16 regulation shall presume that market competition and private
17 remedies are sufficient to protect consumers. If necessary,
18 regulations shall be tailored to meet the predominate
19 identified need to protect consumers as follows:

20 a. If a regulation is intended to protect consumers against
21 fraud, the appropriate state action shall be to strengthen
22 powers under deceptive trade practices acts.

23 b. If a regulation is intended to protect consumers against
24 unsanitary facilities and general health, safety, or welfare
25 concerns, the appropriate state action shall be to require
26 periodic inspections.

27 c. If a regulation is intended to protect a consumer against
28 potential damages to a third party who is not a party to a
29 contract between the seller and buyer, and other types of
30 externalities, the appropriate state action shall be to require
31 bonding or insurance.

32 d. If a regulation is intended to protect a consumer against
33 potential damages by transient providers, the appropriate state
34 action shall be to require registration with the secretary of
35 state.

1 e. If a regulation is intended to protect a consumer
2 against asymmetrical information between the seller and buyer,
3 the appropriate state action shall be to offer voluntary
4 certification, unless appropriate, privately offered voluntary
5 certification for the relevant occupation is available.

6 f. If a regulation is intended to facilitate governmental
7 reimbursement for providing medical services for an emerging
8 medical specialty, the appropriate state action shall be
9 to require a specialty occupational license for medical
10 reimbursement. A person shall not be required to hold a
11 specialty occupational license for medical reimbursement in
12 order to lawfully provide a medical service for an emerging
13 medical specialty; however, a person providing a medical
14 service for an emerging medical specialty without a specialty
15 occupational license for medical reimbursement shall not
16 receive governmental reimbursement for providing that service.
17 A specialty occupational license for medical reimbursement
18 shall not restrict governmental reimbursement for services
19 similar to the regulated service that may be provided by other
20 regulated persons.

21 g. If a regulation is required to perform services
22 regulated by both federal laws and the laws of this state,
23 the appropriate state action shall be to require the state
24 to recognize an individual's occupational license from
25 another state or territory of the United States to allow that
26 individual to practice in this state.

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

31 4. This chapter shall not restrict an occupational
32 licensing board from requiring, as a condition of licensure
33 or renewal of licensure, that an individual's personal
34 qualifications include obtaining or maintaining certification
35 from a private organization that credentials individuals in the

1 relevant occupation.

2 Sec. 18. NEW SECTION. 4B.3 Local licensing — preemption.

3 This chapter preempts any ordinance or other local law or
4 regulation which conflicts with or is inconsistent with any
5 policy of the state expressed in this chapter by any political
6 subdivision that regulates an occupation that is not regulated
7 by the state.

8 DIVISION III

9 ACCOUNTABLE GOVERNMENT ACT REPORTS

10 Sec. 19. Section 8E.210, Code 2020, is amended by adding the
11 following new subsection:

12 NEW SUBSECTION. 1A. In addition to the requirements
13 of subsection 1, an agency's annual performance report
14 shall include a description of how the agency improved
15 efficiency, modernized processes, eliminated duplication and
16 outdated processes, reduced costs, increased accountability,
17 expanded the use of technology, and incorporated productivity
18 improvement measures. The section of the annual performance
19 report addressing the factors listed in this subsection shall
20 be submitted to the state government committee of each chamber
21 of the general assembly and made publicly available on the
22 internet site of the general assembly.

23 DIVISION IV

24 PROFESSIONAL LICENSING BOARD INVESTIGATIONS

25 Sec. 20. Section 272C.3, subsection 1, paragraph d, Code
26 2020, is amended to read as follows:

27 *d.* Determine in any case whether an investigation, or
28 further investigation, or a disciplinary proceeding is
29 warranted. Notwithstanding the provisions of [chapter 17A](#),
30 a determination by a licensing board that an investigation
31 is not warranted or that an investigation should be closed
32 without initiating a disciplinary proceeding is not subject to
33 judicial review pursuant to [section 17A.19](#). Notwithstanding
34 any other provision of law, if a board determines that there
35 is no probable cause to believe that an asserted violation has

1 occurred, the complaint shall be returned to the complainant
2 with a statement specifying the reasons for rejection
3 sufficient to enable the complainant to review the agency's
4 determination.

5 DIVISION V

6 ADMINISTRATIVE RULES REVIEW COMMITTEE REVIEW OF ENTRY
7 REGULATIONS

8 Sec. 21. NEW SECTION. 17A.35 **Review of occupational entry**
9 **regulations.**

10 1. For purposes of this section, unless the context
11 otherwise requires:

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

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

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

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

28 a. Whether the entry regulation is required by state or
29 federal law.

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

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

35 d. Whether the intended purpose of the entry regulation

1 could be accomplished by less restrictive or burdensome means.

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

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

9 5. If the administrative rules review committee disapproves
10 of an entry regulation after consideration of the factors
11 provided in subsection 3, the committee may take any action on
12 the rule otherwise permitted to the committee.

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

17 b. The administrative rules review committee shall review
18 all entry regulations submitted to the committee pursuant
19 to paragraph "a" by December 31, 2024. The committee shall
20 prescribe a schedule for such review and shall update the
21 schedule as necessary. The schedule shall be posted by the
22 legislative services agency on the general assembly's internet
23 site.

24 Sec. 22. APPLICABILITY. Section 17A.35, subsection
25 2, as enacted by this Act, applies to rules filed with the
26 administrative rules coordinator and administrative code editor
27 pursuant to section 17A.4 or 17A.5, for publication in an Iowa
28 administrative bulletin published on or after July 29, 2020.

29 DIVISION VI

30 EFFECTIVE DATE

31 Sec. 23. EFFECTIVE DATE. This Act, being deemed of
32 immediate importance, takes effect upon enactment.