SENATE FILE 2392
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO SSB 3142)

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

_____ and [ = New Language by the Senate

* = Language Stricken by the Senate

## A BILL FOR

An Act relating to the operation of state government, including the review of state boards, the regulation of professions and occupations, and investigations conducted by state boards, and including effective date provisions.

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.

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

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

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

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

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

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

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

the internet site of the general assembly.

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

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

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

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

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

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

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

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

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

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

*c.* The alternatives considered including all of the

following:

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

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

(3) Registration of all practitioners.

(4) Certification of all practitioners.

(5) Other viable alternatives.

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

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

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

(2) Whether the public can identify qualified practitioners.

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

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

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

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

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

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

enter the health profession.

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

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

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

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

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

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

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

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

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

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

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

certificate, or license.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*b.* The legislative committee shall not consider competition

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*b.* The efforts made to address the problem.

*c.* The alternatives considered.

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

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

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

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

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

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

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

DIVISION II

BOARD REVIEWS

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

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

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

*a.* The committee shall consist of three members of the senate appointed by the majority leader of the senate, two members of the senate appointed by the minority leader of the senate, three members of the house of representatives appointed by the speaker of the house of representatives, ~~and~~ two members of the house of representatives appointed by the minority leader of the house of representatives, and one ex officio, nonvoting member appointed by the governor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

For the purposes of this chapter:

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

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

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

*a.* Market competition.

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

*c.* Private certifications.

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

*e.* Actions under section 714.16.

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

*g.* Inspections.

*h.* Bonding or insurance.

*i.* Registrations.

*j.* Government certifications.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*f.* If a regulation is intended to facilitate governmental reimbursement for providing medical services for an emerging medical specialty, the appropriate state action shall be to require a specialty occupational license for medical reimbursement. A person shall not be required to hold a specialty occupational license for medical reimbursement in order to lawfully provide a medical service for an emerging medical specialty; however, a person providing a medical service for an emerging medical specialty without a specialty occupational license for medical reimbursement shall not receive governmental reimbursement for providing that service. A specialty occupational license for medical reimbursement shall not restrict governmental reimbursement for services similar to the regulated service that may be provided by other regulated persons.

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

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

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

relevant occupation.

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

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

DIVISION III

ACCOUNTABLE GOVERNMENT ACT REPORTS

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

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

DIVISION IV

PROFESSIONAL LICENSING BOARD INVESTIGATIONS

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

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

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

DIVISION V

ADMINISTRATIVE RULES REVIEW COMMITTEE REVIEW OF ENTRY REGULATIONS

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

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

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

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

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

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

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

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

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

*d.* Whether the intended purpose of the entry regulation

could be accomplished by less restrictive or burdensome means.

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

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

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

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

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

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

DIVISION VI

EFFECTIVE DATE

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